

*The Indian Emigration Bill.**(Chapter VII.—Emigration Depôts. Chapter VIII.—Conveyance of Emigrants to Depôts and Procedure on Arrival.)*

(a) if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established; or

(b) if the Emigration Agent fails, after reasonable notice, to comply with any of the requirements of this Act or of the rules made under this Act.

[s. 43.]

39. The Protector of Emigrants and the Medical Inspector shall from time to time, and at least once in every week during which any emigrants may be kept in any depôt at the port for which they are Protector and Medical Inspector, respectively, inspect the emigrants in that depôt and examine the state of the depôt and the manner in which the emigrants therein are lodged, fed, clothed and otherwise provided for and attended to.

[s. 44.]

40. The Medical Inspector shall report to the Protector of Emigrants any circumstance that may come to his knowledge showing that any depôt is not suitable for its purpose, or that the emigrants lodged therein are treated with any oppression or neglect.

[s. 45.]

41. (1) The Medical Inspector may, if he thinks fit, direct that any emigrant suffering from any disease likely to be dangerous to his neighbours shall be isolated or excluded from the depôt.

(2) The Medical Inspector may, if he thinks fit, order the removal of any emigrant so suffering to a proper hospital for treatment at the expense of the Emigration Agent; and the expense (if any) incurred by the Protector of Emigrants in respect of the removal of the emigrant and his treatment in the hospital shall be recoverable from the Emigration Agent by the Protector of Emigrants, with interest thereon at the rate of six per centum per annum from the date on which the expense was incurred.

## CHAPTER VIII.

CONVEYANCE OF EMIGRANTS TO DEPÔTS AND  
PROCEDURE ON ARRIVAL.

[s. 46.]

42. A recruiter shall not remove or attempt to remove any intending emigrant to a depôt, or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or aid him in going to a depôt, or in leaving any such local limits, until the intending emigrant has been registered under this Act as an emigrant.

[s. 47.]

43. (1) Every emigrant must, after he has been registered under this Act, be conveyed

with all convenient despatch, by or under the orders of the recruiter or Emigration Agent, to the depôt established at the port of embarkation by the Emigration Agent on whose application the recruiter has been licensed.

(2) When an emigrant has been registered at a place beyond the limits of the port of embarkation, he must, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself, or by a competent person appointed by him with the approval of a Magistrate.

(3) The Magistrate shall give to the person so appointed a certificate signed by him stating that he has been appointed for the journey to the depôt.

(4) The recruiter or the person so appointed shall, throughout the journey, provide the emigrant with proper and sufficient food and lodging.

44. The arrival at a depôt of each emigrant must immediately be reported by the person in charge of the depôt to the Emigration Agent, and by the Agent to the Protector of Emigrants.

[s. 48.]

45. (1) The copy of the particulars registered under section 27, received by the recruiter from the Registering Officer or Protector, must, as soon as conveniently may be after the arrival of the emigrant at the depôt, be shown by the Emigration Agent to the Medical Inspector of Emigrants.

[s. 49]  
Act XVIII of  
1890, s. 4.]

(2) The Medical Inspector shall examine each emigrant whose name is entered in the said copy to ascertain whether he is fit, having regard to his age and state of health, to undertake the journey to the country to which he has agreed to emigrate.

(3) The Medical Inspector, if satisfied of his fitness, shall give a certificate to that effect to the Emigration Agent. If not so satisfied, he shall give a certificate to that effect to the Protector of Emigrants.

Power for Protector to order payment of expenses of return of emigrant in certain cases.

46. (1) In any of the following cases, namely:—

[s. 50.]

(a) if the Medical Inspector of Emigrants finds that an emigrant is, or has become, unfit to undertake the journey to the country to which he has agreed to emigrate, and if the Protector of Emigrants considers that the emigrant has not dishonestly represented himself as fit to undertake the journey, or

(b) if the Protector finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any emigrant as makes it just to rescind the agreement to emigrate, or

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(c) if the Emigration Agent refuses to fulfil the agreement entered into with the emigrant,

the Protector may order the Emigration Agent to pay to the emigrant such sum as the Protector deems reasonable as compensation, and, when the emigrant has been registered at a place beyond the limits of the port of embarkation, such reasonable sum as is necessary to enable him to return to the place at which he was registered, and may take any steps which he thinks necessary for the conveyance of the emigrant to that place.

(d) Any emigrant who has been registered at any place beyond the limits of the port of embarkation, and who from his state of health is, in the opinion of the Medical Inspector of Emigrants, unfit to undertake at once the return-journey to the place at which he was registered, shall be entitled to be fed, lodged, clothed and attended to at the depôt at the expense of the Emigration Agent until he is reported by the Medical Inspector fit to undertake the return-journey.

[s. 51.]

47. (1) Where any order is made under the last foregoing section with reference to any emigrant who was registered at any place beyond the limits of the port of embarkation—

- (a) any emigrant who has been registered as his dependent, or
- (b) any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant,

shall be entitled—

- (i) to be conveyed at the expense of the Emigration Agent with the emigrant to the place at which he was registered; and
- (ii) if the emigrant is unable to travel, to be lodged, fed and clothed in the depôt at the expense of the Emigration Agent until the emigrant is able to travel.

(2) The Protector of Emigrants may include any expenses incurred under this section in an order made under the last foregoing section with respect to the emigrant.

[s. 52.]

48. If it appears that during the journey to the depôt any emigrant has suffered any ill-treatment, or that, in the case of any emigrant who has been registered at a place beyond the limits of the port of embarkation, the provisions of section 43 have not been complied with, the Protector of Emigrants may order the Emigration Agent to pay—

- (a) to the emigrant a reasonable sum by way of compensation, and
- (b) to the Protector the expenses (if any) which may have been incurred by or under the orders of the Protector on

behalf of the emigrant by reason of the neglect to comply with the provisions of section 43.

49. (1) On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any sum to an emigrant under any of the last three foregoing sections, the Protector may pay the same to the emigrant. [s. 33.]

(2) Every sum paid by the Protector to an emigrant under sub-section (1), and, on failure of the Emigration Agent for twenty-four hours to comply with an order for payment thereof under the last foregoing section, every sum which the Protector may have ordered the Emigration Agent to pay to him under that section, shall be recoverable from the Emigration Agent with interest thereon at the rate of six per centum per annum from the date of payment.

(3) Further proof shall not be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the sum, and that the Emigration Agent for twenty-four hours failed to comply with the order.

## CHAPTER IX.

## EMIGRANT-VESSELS.

50. An emigrant shall not be received on board any vessel unless a license to carry emigrants in the vessel has been obtained from the Local Government. [s. 54.]

51. (1) When the master or owner of any vessel desires to obtain a license to carry emigrants in his vessel, he shall apply in writing through the Protector of Emigrants to the Local Government for the license. [s. 55.]

(2) The application must state the number of emigrants which, according to the rules as to space contained in this Chapter, the applicant deems the vessel capable of carrying, and the tonnage and such other particulars respecting the vessel as the Governor General in Council, by rules made under this Act, prescribes.

52. (1) The Protector of Emigrants shall cause the vessel to be surveyed by a competent person at the cost of the master or owner, with a view to ascertain her seaworthiness, and the extent and nature of her accommodation for emigrants, and to ascertain that she is properly ventilated, and is supplied with all the tackle, apparel and furniture requisite for her intended voyage: [s. 56.]



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Provided that, if the vessel is a steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government or under the Indian Steamships Act, 1884, and in force and applicable to her intended voyage, the survey under this subsection with a view to ascertain her seaworthiness shall not extend to her hull or machinery unless the Protector of Emigrants has reason to believe that, since the grant of the certificate, her hull or machinery has sustained injury or damage or has otherwise become inefficient.

(2) If the Local Government is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, and is properly manned and officered, it shall give to the master of the vessel a license to carry emigrants therein specifying the number of emigrants which may be received on board.

53. (1) A license shall not be granted under the last foregoing section unless—  
 Accommodation required on board emigrant-vessel.

(a) there is provided for the emigrants, either between decks or, subject to the approval of the Protector of Emigrants and the Medical Inspector, in cabins on the upper deck, a space devoted to the exclusive use of the emigrants having in every part a height of not less than six feet;

(b) a separate place is fitted up for a hospital; and

(c) such arrangements are made for the separation of women (married or single) and children from the other emigrants as the Governor General in Council, by rules made under this Act, prescribes.

(2) The cabins on the upper deck provided under clause (2) of this section must be firmly secured and entirely covered in.

54. Every emigrant vessel shall contain within the space referred to in clause (a) of the last foregoing section at least twelve superficial feet and seventy-two cubic feet of space for each emigrant:  
 Rules as to space on board emigrant-vessel.

Provided that two emigrants under the age of ten years shall for the purposes of this section count as one only.

55. There shall be on board every emigrant-vessel at the time of departure of the vessel from the port at which they embark, provisions, clothing, fuel and water for the emigrants (over and above the supply for the master, officers and crew, and of the cabin and other passengers, if any), in such quantity and of such description and quality as the Governor General in Council, by rules made under this Act, prescribes.

56. Every emigrant-vessel shall, at the time of departure of the vessel from the port at which the emigrants embark, have on board, and shall carry with her, a properly qualified surgeon, and also such compounders, interpreters and attendants subordinate to the surgeon, and such medicines and other stores, in such quantity and of such quality as the Governor General in Council, by rules made under this Act, prescribes.

57. The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of the last two foregoing sections are complied with.  
 Duty of Protector and Medical Inspector with respect to enforcement of foregoing sections.

58. (1) Every master licensed under this Act shall, on the requisition of the Protector of Emigrants, and before any emigrant embarks on board his vessel, execute to the Protector in duplicate, a bond, in such form as the Local Government prescribes, binding himself and the owner of the vessel in a penal sum of ten thousand rupees, to perform the duties imposed by this Act or any rule made under this Act on a master and owner, respectively.  
 Bond to be executed by master of emigrant-vessel.

(2) The Protector of Emigrants shall forward one copy of the bond to such officer as may be appointed in this behalf by the Government of the country to which the emigrants are to be conveyed, or, in the case of a foreign colony, to the British Consular Agent, and the other copy to the Local Government.

## CHAPTER X.

## EMBARKATION AND DEPARTURE.

59. An emigrant shall not embark, except with the permission of the Protector of Emigrants, until seven days have elapsed from the date of his arrival at the depot.  
 Time of embarkation after arrival.

60. (1) An emigrant-vessel shall not sail from any port in British India—  
 Time at which emigrant-vessels may leave India.

(a) to any country west of the Cape of Good Hope, except at such seasons as the Governor General in Council, by rules made under this Act, prescribes as seasons during which it shall be lawful for emigrant-vessels generally, or of a class to which the vessel belongs, to sail to that country;

(b) to any country during any season which the Governor General in Council, by notification in the Gazette of India, declares to be a season during which the sailing of emigrant-vessels to that country is prohibited.

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[s. 63.]

61. If any emigrant without sufficient cause refuses to embark when called on by the Emigration Agent to do so, it shall not be lawful to compel the emigrant to embark:

Provided that nothing in this section shall affect the civil or criminal liabilities which an emigrant incurs by reason or in respect of any such refusal or neglect.

[s. 65.]

62. (1) When any emigrants are about to embark on board any vessel, the Emigration Agent shall supply the master of the vessel with four copies of a list, specifying, as accurately as may be, the names, ages and occupations of the emigrants, and the names of their respective fathers.

(2) The master shall not receive any emigrant on board unless he is provided with a pass, signed by the Emigration Agent, and countersigned by the Protector, stating the name and age of the emigrant, the name of his father, and the country to which he has agreed to emigrate, and certifying that he is in a fit state of health to undertake the voyage to that country.

(3) Every emigrant shall on embarkation deliver the pass to the master.

(4) The master shall compare the emigrants who embark and the passes delivered by them with the list supplied by the Emigration Agent; and, if the list appears to be correct and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the four copies of the list.

(5) The master shall not permit any emigrant to remain on board who has not delivered up his pass to the master or is not mentioned in the list.

[s. 67.]

63. (1) When the copies of the list have been signed, the master shall give two of the copies to the Protector of Emigrants, who shall sign them if he believes them to be correct.

(2) The Protector shall send one of the copies so signed by him by the vessel which carries the emigrants to such officer as may be appointed in this behalf by the Government of the country to which the emigrants have agreed to emigrate, or, in the case of a foreign colony, to the British Consular Agent, and shall file the other copy in his own office.

[s. 68.]

64. (1) The master shall give to the Emigration Agent the two remaining copies of the list.

(2) The Emigration Agent shall thereupon sign the copies, and shall return one of them to the master.

(3) The master shall, on the arrival of the vessel at the country to which the emigrants

have agreed to emigrate and before their disembarkation, deliver the copy so returned to him to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

65. (1) The Medical Inspector shall be present at the embarkation of all emigrants, and shall examine each emigrant to ascertain if he is in a fit state of health to undertake the voyage to the country to which he has agreed to emigrate; and, if he finds that he is not fit to undertake the voyage, he shall inform the Protector accordingly.

(2) The Protector may thereupon refuse to permit the emigrant to embark; and any emigrant, registered as a dependent of an emigrant whom the Protector has refused to permit to embark, or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, may, notwithstanding anything in this Act, refuse to embark.

(3) The provisions of sections 46, 47 and 49 shall apply to emigrants, who under this section are not permitted to embark, and to any emigrants who under this section refuse to embark, and to the recovery of expenses incurred under this Act in respect of them.

66. Before any emigrant-vessel clears out of any port, the master of the vessel shall obtain from the Protector of Emigrants at the port, and from the Emigration Agent for the country to which the emigrants are to be conveyed, certificates, signed by the Protector and Emigration Agent, respectively, to the effect that the Protector and Agent have, in respect of all the emigrants embarking at that port in the vessel, done all that is required by the foregoing provisions of this Act, or by the rules made under this Act, to be done on the part of the Protector and Agent, respectively, and that all the directions for the security, well-being and protection of emigrants which are contained in this Act or in the rules made under this Act have, in the case of that vessel, been complied with.

67. The master of every emigrant-vessel shall keep on board the vessel during the whole voyage two copies of this Act, and of all rules made under this Act, and two copies of a translation of this Act, and of those rules, in such language or languages as the Local Government directs, and shall, on request made at any reasonable time, produce one of those copies to any emigrant for his perusal.

68. For each emigrant who embarks on board an emigrant-vessel the Emigration Agent shall pay to the Protector of Emigrants a fee of such amount as the Governor-General in Council,

[s. 63.]

[s. 71.]

[s. 72.]

[s. 73.]



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by notification in the Gazette of India, prescribes:

Provided as follows:—

(a) the fee payable under this section shall not be more than is, in the opinion of the Governor-General in Council, sufficient to raise the total income from fees under this Act to an amount which will cover the cost of any establishment or supervision which the Governor-General in Council thinks necessary to provide for the control of emigration;

(b) if it appears to the Governor-General in Council expedient to provide, in the case of any country, any special establishment or expenditure for the protection of Indian emigrants to that country, the Governor-General in Council may increase the fee payable in the case of emigrants to that country to an amount sufficient, in his opinion, to cover the cost of the special establishment or expenditure.

[s. 74.] 69. Every master licensed under this Act shall see that all the provisions of this Act and the rules made under this Act are observed on board his vessel during the voyage from British India to the country to which the emigrants are to be conveyed.

[s. 75.] 70. The master shall return his pass to each emigrant before he embarks in the country to which he has agreed to emigrate.

*Special Provisions as to Vessels sailing from Calcutta.*

[s. 76.] 71. The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as have first embarked.

[s. 77.] 72. Every sailing-vessel leaving the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a steamer declared to be competent by such officer as the Local Government appoints in this behalf.

[s. 78.] 73. (1) Where an emigrant-vessel leaves the port of Calcutta, if during her passage down the river, and while between Garden Reach and Diamond Harbour, the disease of measles, scarlet-fever or small-pox appears on board, the master shall, if so required by the surgeon

in charge of the emigrants, send to the hospital at Diamond Harbour all emigrants suffering from the disease, with any emigrants registered as their dependents and any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of any such emigrant and who wishes to accompany him or her, and shall at once inform the Protector of Emigrants at Calcutta of the number and names of the emigrants so sent to hospital.

(2) The provisions of sections 46, 47 and 49 shall, so far as may be, apply to emigrants landed under this section, and to the recovery of expenses incurred in respect of them.

74. (1) In the event of cholera in an epidemic form appearing among the emigrants on board any such vessel carrying emigrants from the port of Calcutta, the surgeon in charge of the emigrants may require the master to land all the emigrants on board the vessel at Diamond Harbour.

(2) The master shall at once comply with the request of the surgeon, and shall immediately give notice of his having done so to the Protector of Emigrants at Calcutta, who shall take such action thereon as the Governor-General in Council, by rules made under this Act, prescribes.

## CHAPTER XI.

### DEPARTURE OF NATIVES OF INDIA BY SEA OUT OF INDIA FOR CERTAIN PURPOSES. [See Act X of 1902, s. 6.]

75. (1) Whoever desires to engage any Native of India to depart by sea out of India for the purpose— [ss. 107, 112 & (1)]

- (a) of working as an artisan, or
- (b) of any exhibition or entertainment, or
- (c) of service in any restaurant, tea-house or other place of public resort, or,
- (d) save as provided in sub-section (2), of domestic service,

in any place beyond the limits of India other than the Island of Ceylon or the Straits Settlements, shall apply for the permission of the Local Government having jurisdiction at the port from which such person is to depart, and shall state in his application—

- (i) the number of the persons whom he proposes so to engage;
- (ii) the place or places beyond the limits of India to which such persons and their dependents are to proceed;

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(Chapter XI.—Departure of Natives of India by Sea out of India for certain purposes.  
Chapter XII.—Rules.)

- (iii) the accommodation to be provided for such persons and their dependents until their departure out of India and during the voyage;
  - (iv) the provision to be made for the health and well-being of such persons and their dependents during the period of the proposed engagement, and for their repatriation at the end of such period;
  - (v) the terms of the agreements under which such persons are to be engaged; and
  - (vi) the security in British India which he proposes to furnish for the due observance of such agreements and for the proper treatment of the persons to be engaged and their dependents.
- (2) Nothing in sub-section (1) shall be deemed to apply to any person who in good faith—
- (a) engages a Native of India to accompany him out of India as his personal domestic servant, or
  - (b) engages in compliance with the request of some other person, not being in India, a Native of India to depart out of India for the purpose of becoming the personal domestic servant of such other person.

**Explanation.**—For the purposes of this Chapter—

- (i) the word "port" shall mean a port from which emigration is lawful, or any port which the Governor General in Council, by notification in the Gazette of India, notifies in this behalf; and
- (ii) the words "emigrant" and "emigrate" in the definition of "dependent" in section 2, sub-section (1), clause (i), shall be read as referring to the departure by sea out of India of a person whom it is desired to engage under this Chapter.

**76.** On receiving an application under section 75 the Local Government may, after such inquiry as may be necessary, grant the permission applied for on such terms and conditions (if any) and on payment of such fees (if any) as it thinks fit, or withhold such permission, and the decision of the Local Government shall be final.

**77. (1)** Before any Native of India departs from India in accordance with permission granted under section 76, the person by whom he has been engaged shall appear before the Protector of Emigrants at the port of embarkation with such Native of India and with any persons intending to accompany him as his dependents.

(2) If it appears to the Protector of Emigrants—

- (a) that permission to engage such Native of India has been duly obtained,
- (b) that the terms of the agreement under which such Native of India has been engaged are in accordance with the terms of the permission granted, and

- (c) that the conditions on which such permission was granted have been complied with,

he shall register in a book to be kept for the purpose such particulars concerning such Native of India and his dependents (if any) and concerning the person engaging him in such form as the Governor General in Council, by rules made under this Act, prescribes.

**78.** Where such security as is referred to in section 75, sub-section (1), sub-clause (vi), has been furnished, the Local Government may, after such inquiry as may be necessary, pass orders in regard to the forfeiture of the security and the application of the same or of any part thereof, or may order the return of the security or of any part thereof to the person by whom it was furnished, or to his representative.

**79.** The Local Government may, by notification in the local official Gazette, authorize a Protector of Emigrants to receive or dispose of applications made under this Chapter:

Provided that an appeal shall lie to the Local Government from every order passed by a Protector of Emigrants in exercise of the authority so conferred.

**80.** For the purposes of the application of this Chapter to ports from which emigration is not lawful, the explanation to section 75—

- (a) such port shall be deemed to be a port from which emigration is lawful, and
- (b) such officer as the Local Government may appoint in this behalf shall be deemed to be the Protector of Emigrants.

**CHAPTER XII.****RULES.**

**81. (1)** The Governor General in Council may, by notification in the Gazette of India, make rules consistent with this Act—

- (a) to prescribe the person by whom any doubt or dispute referred to in sub-section (2) of section 2 shall be determined and the procedure to be followed and the proof to be required in such cases;
- (b) to provide for the supervision and regulation of places of accommodation provided under this Act, and to define the classes of Magistrates and the officers of Police to be authorized to visit and inspect those places;
- (c) to prescribe the form of the register required under this Act, and the particulars to be entered therein, and to regulate the control to be exercised over Registering Officers by the District Magistrate or officer (if any) appointed in this behalf under this Act;

[Act XII of 1904, s. 3.]

[s. 108, Act XII of 1904, s. 3.]

[s. 109.]

Appearance of engaged persons before, and registration of names by, Protector of Emigrants.

[s. 11]

[s. 112]

[112A]

[s. 80]

[113]

[See Act of 1906]

[6.]



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(d) to prescribe the forms of the agreements to be made under this Act, and the particulars to be contained therein, and the language or languages in which agreements must be expressed;

(e) to prescribe the conditions on which licenses for the establishment of depôts under this Act may be given, to provide for the supervision and regulation of depôts, and for the medical care of the emigrants during their residence there, and the measures to be taken on the outbreak of any epidemic or infectious disease there;

(f) to prescribe the forms to be supplied by Emigration Agents and recruiters for the purposes of this Act;

(g) to prescribe the particulars which the owner or master of a vessel applying for a license to carry emigrants in his vessel must state;

(h) to regulate the proportion of women to be ordinarily carried in any emigrant-vessel with male emigrants, and to prescribe the arrangement to be made for the separation of women (married or single) and children from the other emigrants on board an emigrant-vessel;

(i) to prescribe the description, quantity and quality of provisions, fuel and water to be taken by emigrant-vessels, the daily allowance of food and water to be issued, and the nature and amount of clothing to be supplied to each emigrant during the voyage;

(j) to fix the number of the compounders, interpreters and attendants subordinate to the surgeon to be carried for the care of the sick or weakly on board each emigrant-vessel;

(k) to prescribe the nature, quantity and quality of medicines and other stores to be carried on board emigrant-vessels;

(l) to provide for the ventilation and cleanliness of every emigrant-vessel during a voyage, and for its being furnished with a sufficient number of life-buoys, boats, water-buckets and other appliances to be used in case of shipwreck or fire;

(m) to prescribe the seasons at which alone emigrant-vessels or specified classes of emigrant-vessels may sail from any port in British India to any country west of the Cape of Good Hope to which emigration is for the time being lawful;

(n) to provide for the disposal of emigrants who may be landed under section 74;

(o) to provide for the medical care of the emigrants on the voyage, and to provide for the measures to be taken on the outbreak of any epidemic or infectious disease on a voyage;

(p) to provide for a journal being kept by the surgeon of every emigrant-vessel, recording the health of the emigrants, and his treatment of the sick, with full explanation of the causes of every death; and to define the duties and powers of the surgeon in respect of the emigrants committed to his care;

(q) to define and regulate the powers and duties of the several officers appointed by the Government under this Act;

(r) generally to provide for the security, well-being and protection of emigrants; and

(s) to carry into effect the provisions of [s. 113 (1)] Chapter XI:

Provided that the Local Government may, in special cases, notwithstanding anything contained in rules made under clause (h) of this section, permit an emigrant-vessel to sail, though it does not carry the proportion of women required to be carried in ordinary cases.

(2) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication. [s. 4. 51.]

## CHAPTER XIII.

## OFFENCES.

82. (1) Whoever, except in conformity with [s. 82.] the provisions of this Act or of the rules made under this Act,—

(a) makes, or attempts to make, any agreement with any Native of India, purporting to bind him to emigrate, or

(b) in consideration of any hire or reward, induces, or attempts to induce, any Native of India to leave any place for the purpose of emigrating, or otherwise acts or is employed as a recruiter of emigrants, or

(c) in consideration of any hire or reward receives into or detains in any place, or, being a recruiter, in any place other than a place in which accommodation has been provided in accordance with this Act or the rules made under this Act, any person with a view to his being registered as an emigrant, or after his registration as an emigrant and before his departure for the depôt at the port of embarkation,

shall be punishable with fine which may extend to five hundred rupees.

(2) If any person, other than a recruiter licensed under this Act, commits an offence under this section, any police-officer may arrest him without warrant.

83. Whoever, being a recruiter licensed under [s. 83.] this Act,—

Recruiters removing unregistered emigrants to depôt.

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(2) before any intending emigrant has been registered under this Act as an emigrant,—

- (i) removes or attempts to remove him to a depôt, or
- (ii) induces, or attempts to induce, him to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or
- (iii) aids, or attempts to aid, him in leaving any such local limits or going to any depôt, or

(b) fails to give a true copy of the statement with which he is provided under section 22 to any person whom he invites to emigrate, or

(c) fails to provide any emigrant whom he has engaged, and who has been registered at a place beyond the limits of the port of embarkation, with suitable lodging and food, or otherwise ill-treats any emigrant on his journey to the depôt,

shall be punishable with fine which may extend to five hundred rupees.

[s. 84.]

84. Whoever, by means of intoxication, fraudulently inducing coercion or fraud, causes Native to emigrate, or induces, or attempts to cause or induce, any Native of India to emigrate, or to enter into any agreement to emigrate or to leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

[s. 85.]

False representation of Government authority.

85. Whoever,—

(a) without lawful authority, issues any written order to the Police to assist himself or any other person to procure emigrants, or

(b) falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

[s. 86.]

Receiving emigrants on board vessel in contravention of Act.

86. Any master of a vessel who—

(a) knowingly receives on board his vessel any emigrant who has not complied with the provisions of this Act or the rules made under this Act, so far as they are binding on him, or,

(b) not being licensed under this Act, knowingly receives any emigrant on board his vessel, or,

(c) being licensed under this Act, knowingly receives on board his vessel any emigrant in excess of the number specified in his license,

shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees for each emigrant so received, or with both; and the vessel, her tackle, apparel and furniture, may be declared by the Court before which the master is tried to be forfeited to His Majesty.

87. Any master licensed under this Act who fraudulently does, or suffers to be done, any act or thing whereby the license becomes inapplicable to the altered state of the vessel or other matter to which the license relates, shall be punishable with fine which may extend to five thousand rupees,

[s. 87.]

and he may also be sued on any bond which he may have executed under section 58.

88. Any master of an emigrant-vessel who clears, without or attempts to clear, his vessel outwards when any of the provisions of section 53, 55 or 56 have not been complied with in respect of his vessel, shall be punishable with fine which may extend to four thousand rupees.

[s. 88.]

89. Any master who receives on board his vessel any emigrants and fails to comply with the requirements of sections 62, 63 and 64 in respect of those emigrants, shall be punishable with fine which may extend to two hundred rupees for each emigrant so received on board.

[s. 89.]

90. Any master who, having cleared his vessel, takes on board any emigrant not entered in the list mentioned in section 62 or not furnished with a pass required by that section, shall be punishable with fine which may extend to two hundred rupees for each emigrant so taken.

[s. 90.]

91. Any master who lands any emigrant in any country other than the country for which he has been shipped by the Emigration Agent, shall be punishable for every emigrant so landed with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both, unless the landing has been caused by stress of weather or unavoidable accident, or has taken place under the provisions of section 73 or 74.

[s. 91.]

92. Any master of a sailing-vessel leaving the port of Calcutta with emigrants on board who—

[s. 92.]

(a) does not leave Garden Reach with his vessel within the time prescribed in section 71, or,

(b) without reasonable excuse, causes or allows his vessel to go below Garden Reach without being in tow of such a steamer as is referred to in section 72, shall be punishable with fine which may extend to one thousand rupees.

Failure to comply with provisions as to leaving Calcutta.



*The Indian Emigration Bill.**(Chapter XIII.—Offences. Chapter XIV.—Supplemental.)*

[a. 93.] Emigrant deserting or refusing to proceed to depôt. 93. (1) Any emigrant who—

- (a) deserts before arrival at depôt, or
- (b) refuses without reasonable cause to proceed to the depôt,

shall be punishable with fine which may extend to twenty rupees, or to the cost incurred in entering into an agreement with, registering and conveying him to the depôt, whichever is greater, and, in default of payment of the fine, with imprisonment which may extend to one month.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

[a. 94.] Emigrant deserting from depôt or failing to embark. 94. (1) Any emigrant who—

- (a) deserts from the depôt, or
- (b) without reasonable cause, refuses or neglects to embark when called upon to do so by the Emigration Agent,

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or to double the amount of the cost incurred in entering into an agreement with, registering and conveying him to the depôt, and maintaining him therein, or with both.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

[a. 95.] 95. Any person who causes, or any master who knowingly permits, any emigrant to embark contrary to the provisions of section 59, shall be punishable with fine which may extend to two hundred rupees for each emigrant so embarked.

[a. III (1).] Offences against provisions of Chapter XI. 96. Whoever,—

- (a) without having first obtained the permission of the Local Government referred to in section 75, sub-section (1), enters or attempts to enter into an agreement purporting to bind any Native of India to depart by sea out of India for any of the purposes specified in the said sub-section, or
- (b) causes any Native of India engaged by him for any such purpose as aforesaid to depart from any port which is not a port from which emigration is lawful, or which has not been notified under clause (i) of the explanation to section 75, or
- (c) causes any Native of India engaged by him, after grant of the permission referred to in section 76, to depart by sea

out of India without registration of the particulars required by section 77, sub-section (2),

shall, on conviction by a Magistrate of the first class, be punishable with fine which may extend to two hundred and fifty rupees for each Native of India in respect of whom the offence is committed.

97. Prosecutions under sections 86 to 96 both inclusive shall not be instituted except as follows, namely:— [a. 96, 2, 122 (2).]

- (a) prosecutions under sections 86 to 92, both inclusive, by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government;
- (b) prosecutions under section 93, by or with the sanction of a Magistrate or Registering Officer or of the Protector of Emigrants at the port of embarkation;
- (c) prosecutions under section 94, by the Emigration Agent with the sanction of the Protector;
- (d) prosecutions under sections 95 and 96 by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

98. The following shall be good defences to Defence to charges under sections of desertion. charges under sections 93 and 94, respectively, namely:— [a. 97.]

- (a) to a charge under section 93, that the accused person or other emigrants accompanying him has or have been ill-treated, deceived or defrauded by the recruiter or any person under his control;
- (b) to a charge under section 94, that the emigrant has suffered any ill-treatment or neglect in the depôt or on the journey thither.

99. All the powers for the time being conferred by law on officers of Power for Customs-officers to search and detain for purposes of Act, sea-customs with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act. [a. 98.]

## CHAPTER XIV.

## SUPPLEMENTAL.

100. The Local Government may appoint any person to perform with- Power for Local Government to appoint Magistrate for purposes of Act. in a specified area the functions of a Magistrate under this Act. [a. 99.]

*The Indian Emigration Bill.*  
(Chapter XLV.—Supplemental.)

[s. 100.] 101. (1) Where an Emigration Agent is chargeable with a breach of any duty to an emigrant arising from any agreement with the emigrant or imposed by this Act or the rules made under this Act, the Protector of Emigrants may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of compensation for the breach.

(2) In awarding compensation under this section all sums ordered to be paid under section 46 or section 48 shall be taken into consideration.

[s. 101.] 102. (1) The Governor General in Council may, by notification in the Gazette of India, determine what shall be held to be, for the purposes of this Act, the probable length of the voyages by sailing-vessels and vessels using steam power, respectively, from any port from which, to any country to which, emigration is for the time being lawful.

(2) Until otherwise determined under this section, the probable length of the voyage by sailing-vessels from the ports mentioned in the third schedule to the countries mentioned in that schedule, shall be deemed to be the lengths stated in that schedule.

[s. 102; Act XVIII of 1890, s. 7; Act VII of 1897, s. 2.] 103. On and from such a date as the Governor General in Council may, by notification in the Gazette of India, have fixed or may hereafter, by like notification, fix in this behalf with respect to any protected Native State adjoining the Straits Settlements, or with respect to any country for labour in which Natives of India are recruited exclusively through the agency of the Government of the Straits Settlements, a Native of India departing by sea out of British India under an agreement to labour for hire in any such State or country shall not, so long as the notification continues to apply to the State or country, be deemed to emigrate within the meaning of this Act.

[s. 103.] 104. The provisions of this Act shall apply to emigration from British Indian ports—

- (a) to the French Colonies, under the terms of the Convention executed at Paris on the first day of July 1861, and ratified at the same place on the thirtieth day of July 1861, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French; and
- (b) to the Netherlands colony of Dutch Guiana under the terms of the Convention executed at the Hague on the eighth day of September 1870, and

ratified at the same place on the seventeenth day of February 1872, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the King of the Netherlands:

Provided that *emigration* to the French colonies, or any of them, shall not be lawful until a notification under section 4, sub-section (1), has been issued in respect thereof; but subject to this proviso, in any case in which there is any conflict between the provisions of this Act and those contained in either of those Conventions, the latter shall prevail.

105. The provisions of this Act shall, so far as they relate to proceedings which are to be conducted in British India, apply, in the case of Natives of India who depart by sea from a French port in India under an agreement to labour for hire in a French colony, under the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French referred to in the last foregoing section as if such Natives were emigrants within the meaning of this Act.

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in that Convention, the latter shall prevail.

106. (1) The departure by land out of British India of a Native of India under, or with a view to entering into, an agreement to labour for hire in some country beyond the sea other than the Island of Ceylon or the Straits Settlements is prohibited:

Provided that nothing in this section applies to the departure by land of a Native of India for the purpose of departing by sea from a French port in India under an agreement to labour for hire in a French colony in accordance with the Convention referred to in section 104, clause (a), and section 105.

(2) Whoever induces, or attempts to induce, any Native of India to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under section 82.

107. The Governor General in Council may, by notification in the Gazette of India, declare that all or any of the provisions of this Act or the rules thereunder shall not apply, or shall apply subject to such conditions, modifications or restrictions as to the Governor General in Council may seem expedient in the case of Natives of India departing out of British India under an



(Chapter XV.—Savings and Repeals. The First Schedule.—Countries to which Emigration is lawful. The Second Schedule.—Form of Recruiter's License.)

Provided that no notification under this section shall be issued unless the Governor General in Council is first satisfied that the fair treatment of Natives of India so departing out of British India has, by rules or otherwise, duly been secured.

### SAVINGS AND REPEALS.

109. All contracts entered into under the Savings. Indian Emigration Act, 1871, and Act No. XIV of 1872 (to exempt the Straits Settlements from the Indian Emigration Act, 1871), or under any enactment hereby repealed, and in force at the commencement of this Act, shall, so far as they are consistent with this Act, be deemed to have been entered into under this Act.

110. The enactments mentioned in the fourth schedule are hereby repealed to the extent specified in the fourth column thereof.

(See section 4.)

I.—The British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis, Fiji and Seychelles.

## II.—The Netherlands Colony of Dutch Guiana.

### III.—The Danish Colony of St. Croix.

(See section 17.)

### FORM OF RECRUITER'S LICENSE.

OFFICE of the Protector of Emigrants at the  
Port of

A. B., described in the descriptive roll annexed, is hereby licensed under the Indian Emigration Act, 1908, to be a recruiter of emigrants for [here state the country for which the recruiter is licensed to recruit] in [here specify the area within which the recruiter is licensed to recruit].

This license will be in force until the  
of \_\_\_\_\_ unless previously  
cancelled.

(Signed) C. D. r

*Protector of Emigrants.*

Dated the

day of

*Descriptive Roll.*

[illegible]

VK

*The Indian Emigration Bill.*

(The Third Schedule.—Probable Lengths of Voyage by Sailing Vessel under this Act.) (The Fourth Schedule.—Enactments repealed.)

## THE THIRD SCHEDULE.

(See section 102.)

## PROBABLE LENGTHS OF VOYAGE BY SAILING VESSEL UNDER THIS ACT.

## FROM CALCUTTA—

To Mauritius . . . { From the month of April to the month of October, both inclusive, ten weeks; and from the month of November to the month of March, both inclusive, eight weeks.

To Fiji, British Guiana, Trinidad, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, and Dutch Guiana. } Eighteen weeks.

To Natal . . . Twelve weeks.

To Jamaica and St. Lucia . . . Twenty weeks.

## FROM MADRAS—

To Mauritius . . . { From the month of April to the month of October, both inclusive, seven weeks; and from the month of November to the month of March, both inclusive, six weeks.

To the Seychelles . . . { During the north-east monsoon, five weeks; and during the south-west monsoon, six weeks.

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, and Dutch Guiana. } Nineteen weeks.

To Natal . . . Ten weeks.

To Fiji . . . Seventeen weeks.

## FROM BOMBAY—

To Mauritius . . . { From the month of April to the month of September, both inclusive, five weeks; and from the month of October to the month of March, both inclusive, six weeks.

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, and Dutch Guiana. } Nineteen weeks.

To Natal . . . Ten weeks.

To Fiji . . . Seventeen weeks.

## THE FOURTH SCHEDULE.

(See section 110.)

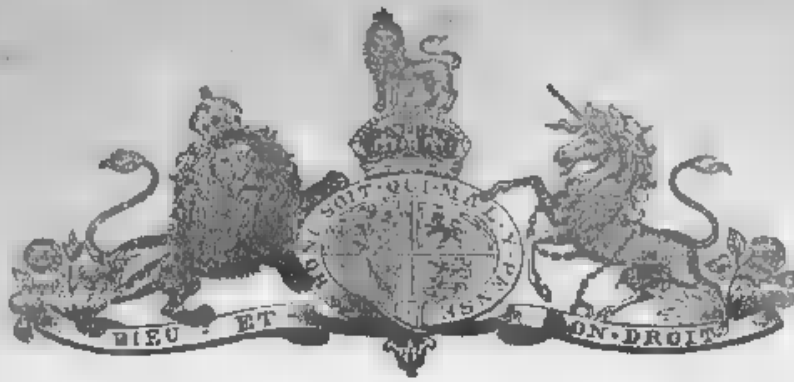
## ENACTMENTS REPEALED.

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1883	XXI	The Indian Emigration Act, 1883.	So much as has not been repealed.
1890	XVIII	The Indian Emigration Act (1883) Amendment Act, 1890.	The whole.
1896	I	The Indian Emigration Act (1883) Amendment Act, 1896.	Ditto.
1897	VII	The Indian Emigration Act Amendment Act, 1897.	Ditto.
1902	X	The Indian Emigration (Amendment) Act, 1902.	Ditto.
1904	XII	The Indian Emigration (Amendment) Act, 1904.	Ditto.
1908	XII	The Indian Emigration (Amendment) Act, 1908.	Ditto.

J. M. MACPHERSON,  
Secretary to the Government of India.



*Erratum.*—The paging of Part VI of the *Gazette of India* of June 13, 1908, should be from 127 to 140, and not 133 to 146 as given.



# The Gazette of India.

PUBLISHED BY AUTHORITY.

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SIMLA, SATURDAY, JULY 11, 1908.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

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## PART VI.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 AND 1892 (24 & 25 VICT., CAP. 67, AND 35 & 36 VICT., CAP. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 10th July 1908.

### P R E S E N T :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.  
His Honour Sir Louis William Dane, K.C.I.E., C.S.I., Lieutenant-Governor of the Punjab.  
His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.  
The Hon'ble Mr. H. Erle Richards, K.C.  
The Hon'ble Major-General C. H. Scott, C.B., R.A.  
The Hon'ble Sir Harvey Adamson, Kt., C.S.I.  
The Hon'ble Mr. J. O. Miller, C.S.I.  
The Hon'ble Mr. W. L. Harvey, C.I.E.  
The Hon'ble Mr. J. S. Meiston, C.S.I.  
The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.  
The Hon'ble Munshi Madho Lal.  
The Hon'ble Dr. Rashbehary Ghose, C.I.E., D. L.

### LOCAL AUTHORITIES LOAN (AMENDMENT) BILL.

The Hon'ble MR. MESTON moved that the Bill to amend the Local Authorities Loan Act, 1904, be taken into consideration. He said :—“ When he



introduced this Bill at the last meeting of this Council, Sir Edward Baker explained fully the purposes of the measure. Since then the Bill has been duly published and no objections have been received. We did not indeed anticipate that any objection would be taken to it, inasmuch as the purpose of the Bill is to remove a small and purely technical defect in the existing law, and its character is wholly non-contentious."

The motion was put and agreed to.

The Hon'ble MR. MESTON moved that the Bill be passed.

The motion was put and agreed to.

#### ASSAM LABOUR AND EMIGRATION (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved for leave to introduce a Bill to amend the Assam Labour and Emigration Act, 1901. He said:—"In September 1905 the Chief Commissioner of Assam recommended that Act VI of 1901, the Assam Labour and Emigration Act, should be withdrawn from the districts of Cachar and Sylhet in the Surma Valley and from the districts of Kamrup and Goalpara in Lower Assam. He represented that in the two former districts the provisions of the Act had fallen into disuse in respect of the management of labour on the tea gardens, and that in Kamrup and Goalpara the extent of tea cultivation was inconsiderable, and there were hardly any labourers subject to the provisions of the Act. The majority of the employers of tea garden labour in these districts were in favour of the withdrawal of the Act, and in the circumstances the Chief Commissioner held that the maintenance of a special law for the control of labour was unjustifiable. The Government of India agreed with this view, but preferred to defer action till the receipt of the report of the Committee which they appointed in February 1906 to enquire into the supply of labour for the tea districts of Upper Assam.

"The evidence recorded by the Labour Enquiry Committee in the recruiting districts showed, however, that there was a widespread feeling against withdrawing the recruitment provisions of the Act which apply to these districts. It was feared that abuses would spring up, if all control over the engagement of labourers for the Surma Valley and the districts of Lower Assam were given up. The Committee recognized the danger, but a majority were prepared to give the system a trial by suspending the operation of the recruitment provisions of the Act in so far as the Surma Valley and the districts of Kamrup and Goalpara were concerned, whilst at the same time exempting these districts from the provisions of the Act relating to the labour districts. Most of the Local Governments, when consulted regarding the Committee's proposals, were strongly opposed to the suspension or withdrawal of the recruitment provisions of the Act. They considered that abuses would arise, and that the portion of the law regulating the engagement of the labourers should be retained.

"The Government of India accepted these conclusions, and decided that only the provisions relating to the labour districts should be dispensed with. This it is proposed to effect by the issue of a notification under section 221 of the Act declaring that, with certain exceptions of a minor nature, the provisions relating to the labour districts are withdrawn from the districts of the Surma Valley and from Kamrup and Goalpara.

"It will then be necessary to legislate in order to enable the taking of contracts to be dispensed with in the case of emigrants proceeding to these four districts, and the present law, which in certain cases renders the execution of a contract in the district of recruitment compulsory, will have to be amended since the terms of the contract will no longer be enforceable. It is therefore proposed in the Bill before Your Excellency's Council to enable the Local Government by notification in the official Gazette to dispense with or relax any of the provisions of Chapters III and IV and section 90 of the Act relating to recruitment, on such conditions as may be prescribed in the notification.

"Clause 2 has been made general, so that the new procedure may be hereafter applied to any other labour district besides those referred to, should circumstances arise to render this advisable. The amendment of the law which

is proposed will also enable a trial to be given to the recommendation of the majority of the Labour Enquiry Committee, by permitting the Local Government to dispense with all the provisions of the Act governing recruitment in the case of labourers proceeding to the four districts. The Lieutenant-Governor of the United Provinces has expressed his willingness to allow a trial to be given in the United Provinces to the form of recruitment which is conducted by garden sardars, that is to say, labourers who have been to the tea gardens and return to their country to enlist other labourers. It is considered desirable to give free recruitment under this system a trial, with a view to ascertaining how far we can safely advance towards the final abandonment of the special legislation which at present controls the movement of labour between two parts of India. It has all along been the desire of the Government of India that the present law should disappear, and in the orders which were issued with the Secretary of State's approval on the report of the Labour Enquiry Committee, it has been announced that the Government of India will further consider the question on the expiry of two years.

"In clause 3 of the Bill opportunity has been taken to give effect to the principle that, if the revenues of a fund have not been specially assigned to local management and the expenditure is under the orders of Government, it should cease to have a separate existence and its accounts should be absorbed in the Imperial or Provincial accounts as the case may be. The Inland Labour Transport Fund which is constituted under section 218 of the Act is of the nature referred to. Clause 3 of the Bill is intended to permit the fees and fines realised under the Act to be included in the Provincial accounts. The amendment of section 218 which it enacts will admit of the deficits of one province being met from the surplus in another, a course which past experience has proved to be desirable. The expenditure of the receipts will be restricted to the purposes indicated in the Bill, and any surplus there may be will be applied towards reducing the annual or registration charges."

The motion was put and agreed to.

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the Fort St. George Gazette, the Calcutta Gazette, the United Provinces Gazette, the Eastern Bengal and Assam Gazette and the Central Provinces Gazette in English, and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

#### INDIAN EMIGRATION (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved for leave to introduce a Bill further to amend the Indian Emigration Act, 1883. He said:—"The Bill introduces two amendments in the Indian Emigration Act of 1883.

"The first of these is designed to exempt from the application of the Emigration Act Indian subjects of foreign European settlements. The wording of the Act, as it now stands, includes these latter, who are consequently subject to the restrictions imposed upon the departure from India of Indians under a contract to labour for hire. The case which has led to the change in the law which we propose to make arose as follows. In October 1906 the Protector of Emigrants, Bombay, declined to permit the embarkation of some Portuguese subjects, natives of Damaun, who desired to proceed to Lourenço Marques to work in the salt pans. These men were in possession of passports from the Portuguese authorities and were only passing through Bombay *en route* to their destination. The action of the Protector, which was legally correct, was made the subject of a diplomatic representation to His Majesty's Government, and at their instance we have considered the advisability of amending our Act to meet the class of cases under consideration. The Local Governments consulted are agreed that subject to certain regulations being imposed to prevent the evasion of the Act by persons who are not the subjects of foreign European settlements, exemption should be provided for in favour of Indian subjects of the Portuguese and

French settlements in India desiring to proceed under contract to countries outside India. For this purpose the expression 'Native of India' is being defined as bearing the meaning given to it in the General Clauses Act, and power is being taken to prescribe the procedure which should be followed by persons desirous of emigrating from British Indian ports who claim to be subjects of foreign European settlements in India.

"The second amendment is a slight one. Section 18 of the Act permits of the appointment by a Local Government of only one Medical Inspector at ports from which emigration is lawful. This has given rise to inconvenience when the Medical Inspector, as is sometimes the case, is a Civil Surgeon with other duties to perform. Power is now being taken in the amending Bill to provide for the appointment of one or more Medical Inspectors."

The motion was put and agreed to.

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 7th August 1908.

J. M. MACPHERSON,

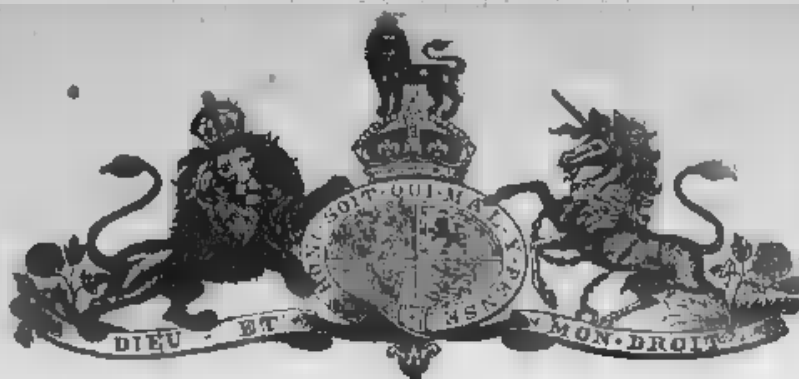
*Secretary to the Government of India,*

*Legislative Department.*

SIMLA;

The 10th July 1908. }





# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 8, 1908.

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The Council met at the Viceregal Lodge, Simla, on Friday, the 7th August 1908.

### PRESENT:

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.  
His Honour Sir Louis William Dane, K.C.I.E., C.S.I., Lieutenant-Governor of the Punjab.  
His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.  
The Hon'ble Mr. H. Erle Richards, K.C.  
The Hon'ble Major-General C. H. Scott, C.B., R.A.  
The Hon'ble Sir Harvey Adamson, Kt., C.S.I.  
The Hon'ble Mr. J. O. Miller, C.S.I.  
The Hon'ble Mr. J. S. Meston, C.S.I.  
The Hon'ble Munshi Madho Lal.  
The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

### INDIAN LIMITATION BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Report of the Select Committee on the Bill to consolidate and amend the law for the Limitation of Suits and for other purposes be taken into consideration. He said:—"I have, on former occasions, explained to this Council the object of this Bill and the changes proposed by the Select Committee. I cannot usefully add anything today."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that in clause 13 of the Bill, as amended by the Select Committee, after the words "British India" the following words shall be inserted, namely:—

"and from the territories beyond British India under the administration of the Government."

He said:—"Clause 13 of the Bill, as it stands, applies only to territories in British India. There are some territories administered by the Government of India which are not technically part of British India, but which are for all purposes of this Bill on the same footing as British India. The object of this amendment is to include them within this clause."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that in clause 29 of the Bill, as amended by the Select Committee, for sub-clause (2) the following sub-clause shall be substituted, namely:—

"(2) Nothing in this Act shall apply to suits under the Indian Divorce Act."

He said:—"There is an error in clause 29, sub-section (2). The Madras Regulation which is referred to there, is not now in force and the amendment which I move is intended to alter the clause accordingly."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, as now amended, be passed.

The Hon'ble Dr. RASHBEHARY GHOSE said:—"My Lord, it has been pointed out to us by a learned gentleman for whose opinion I have great respect that clause 3 of the Bill is not quite consistent with the provisions contained in Order VIII, rule 2, of the Code of Civil Procedure, 1908, under which a defendant must raise by his pleading all matters which show the suit not to be maintainable, and all such grounds of defence, as, if not raised, would be likely to take the opposite party by surprise, or would raise issues of fact not arising out of the plaint, as, for instance, fraud, limitation, &c. To my mind, however, there is no such inconsistency. For where the defence of limitation rests upon any disputed question of fact, if the defendant does not raise it in his pleading, the Court will not be bound to direct an issue; as pointed out by the Judicial Committee in *Venkata v. Rashyakartu*, 25 Mad. 367, in which their Lordships held, section 4 of the Limitation Act notwithstanding, that where no question of limitation necessarily arose on the pleadings it was not obligatory on the Judge to direct an issue on the point. Where, however, the facts are not in any way in controversy, the Court will be bound to dismiss the suit, if it is barred by the law of limitation; though the defendant may not have raised the defence in his pleading. And in this connection I may refer to Order VII, rule 11, of the new Code of Civil Procedure."

The motion was put and agreed to.

#### INDIAN PORTS BILL.

The Hon'ble MR. ERLE RICHARDS: "I move, my Lord, for leave to introduce a Bill to consolidate the law relating to Ports and Port-charges. This Bill is of the same character as two other Bills to which subsequent motions on the paper relate. They are, all three of them, Bills to consolidate the law. It will probably be convenient to the Council if I explain on this motion the reason why this consolidation is undertaken.

"It must be the aim, my Lord, of every Legislature to have the Statute law on each particular subject contained in one enactment and one enactment only. The law is then readily ascertainable both by executive and judicial officers who have to administer it, and by those of the public who have occasion to investigate it. But this is an ideal which it is not easy to maintain. An Act complete in itself may be enacted in the first instance, but as time goes on changes are required: amendments are made, one after the other; and, sooner or later, it is sure to happen that the law, instead of being contained in that one enactment, becomes scattered about in a series of Acts.

" Legislation in this Council is not attended with the same difficulties as in some other Legislatures, and for that reason we are constantly tempted to pass amending Acts. During the past four years we have passed some 37 Acts of general importance, and of these no less than 23 have been amending Acts. The result is that the Statute law on some subjects has become obscure and our principal Acts, or at least the earlier of them, have become encumbered with cross-references which are a source of confusion and of mistake. The changes introduced are often of themselves of minor importance; alterations of a few words, or of a clause or two; but still each one of them has to be examined to find out what the law is. Cromwell described the Statute-book of England in his day as a 'most ungodly jumble': I will not use that expression of our Indian Statute law; but I do urge on this Council that no opportunity should be neglected of simplifying our Statute-book. The Legislative Department from time to time publishes editions of our Acts with the amendments printed in them up to date, but these editions are of no authority: they cannot be cited in Courts of Law; and are not, I understand, in wide use. The only effective remedy is to consolidate, that is, to re-enact in a single measure the provisions relating to the same subject which have become scattered about in different Acts.

" Consolidation, my Lord, may take two forms: there may be consolidation with amendments of substance, or there may be consolidation pure and simple, that is, without any amendments of substance.

" The first form of consolidation has been adopted by this Council not infrequently. The Limitation Act, which we have passed this morning, is an instance of consolidation with some amendments to meet conflicts of judicial opinion. The Civil Procedure Code, passed this year, consolidates the law of civil procedure with some considerable changes; the Coinage Act and the Paper Currency Act, both passed in recent years, are measures which contain the whole Statute law on those subjects. But it is not always possible to undertake a Bill of this kind, nor can it be passed into law without considerable delay. Amendments of substance require, and must receive, the consideration of Local Governments and of other persons interested in the subjects with which they deal; and once any amendments of substance are introduced it is open to any one to bring forward other amendments. Moreover, it is often impolitic to put a law into the melting pot in this way. These objections can, to some extent, be met by varying the procedure; by passing an amending Bill in the first instance to be followed by a consolidation Bill re-enacting the law as it stands after the passing of the amending Act; or, again, in some cases an amending Act can be turned into a consolidation Act in Select Committee. For both these courses there are precedents in English practice. But still consolidation with amendments must always be a matter of some difficulty.

" The present Bills, my Lord, are examples of the second method of consolidation, which is not open to the objections to which I have just referred, and I invite the attention of Council to the matter because they are the first Bills of the kind which have been introduced into the Legislative Council of India. They are intended to collect and re-enact the law without any changes of substance. There must in any re-enactment be some small alterations of wording; there are differences of style in the existing Acts, and those Acts often speak in different language, because a different General Clauses Act or different rules of construction were in force at the time they were passed. But these Bills are intended to reproduce the existing enactments with such alterations only as are required for uniformity of expression and adaptation of existing practice; they are not intended to embody any substantial amendments of law. It is a temptation to every one to suggest amendments when a Bill is before this Council, but that temptation is one which I hope, in the present instances, we shall sternly resist; once the door is opened to any one amendment of substance it will be impossible to decline to discuss other amendments of a like kind and the Bills will then cease to be mere consolidating measures.

" These three Bills, my Lord, collect and re-enact the law relating to the three subjects of Ports and Port-charges, Registration of Documents and



Emigration of Natives of India. That law is now scattered about in no less than 21 enactments. If these Bills be passed the law on each of these subjects respectively will be contained in one Act—and one Act only—and we shall have reduced the number of Statutes on our Statute-book by 15. It is a modest improvement, my Lord, but still it is an improvement worth making.

"In regard to the particular Bill which I move for leave to introduce, *viz.*, the Ports Bill, I have little further to say. It effects one small alteration in the law to which reference is made in the Statement of Objects and Reasons, but the matter is not one of substance and it is not necessary for me to call further attention to it."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS introduced the Bill.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India, the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette, the Burma Gazette, and the Eastern Bengal and Assam Gazette.

The motion was put and agreed to.

#### INDIAN REGISTRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved for leave to introduce a Bill to consolidate the law relating to the Registration of Documents. He said:—"On this Bill there is one point of some little doubt. It arises on clause 50. It is explained in the Statement of Objects and Reasons and I will not refer to it further now. It is a point which will have to be settled in Select Committee."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS introduced the Bill.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the local official Gazettes.

The motion was put and agreed to.

#### INDIAN EMIGRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved for leave to introduce a Bill to consolidate the law relating to the Emigration of Natives of India.

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS introduced the Bill.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the local official Gazettes.

The motion was put and agreed to.

The Council adjourned to Friday, the 11th September 1908.

J. M. MACPHERSON,

Secretary to the Government of India,  
Legislative Department.

SIMLA :

The 7th August 1908. }



# The Gazette of India.

PUBLISHED BY AUTHORITY.

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SIMLA, SATURDAY, SEPTEMBER 12, 1908.

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Separate paging is given in this Part in order that it may be filed as a separate compilation.

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## PART VI.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 AND 1892 (24 & 25 VICT., CAP. 67, AND 55 & 56 VICT., CAP. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 11th September 1908.

### PRESENT:

His Excellency the Earl of Minto P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.  
His Honour Sir Louis Dane, K.C.I.E., C.S.I., Lieutenant-Governor of the Punjab.  
His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.  
The Hon'ble Mr. H. Erle Richards, K.C.  
The Hon'ble Major-General C. H. Scott, C.B., R.A.  
The Hon'ble Sir Harvey Adamson, Kt., C.S.I.  
The Hon'ble Mr. J. O. Miller, C.S.I.  
The Hon'ble Mr. W. L. Harvey, C.I.E.  
The Hon'ble Mr. J. S. Meston, C.S.I.  
The Hon'ble Munshi Madho Lal.  
The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

### INDIAN SALT-DUTIES BILL.

The Hon'ble MR. MESTON moved that the Bill to make special provision for the payment of duty on salt in certain cases be taken into consideration. He said:—"My Lord, when the Bill was introduced it was explained that the intention of the measure is to permit of the issue of Government salt under

a system of limited credit for the duty instead of upon payment in cash, which is the case in most provinces. The object is to provide cheap credit for the business of distributing salt and thereby to help in cheapening the cost of salt to the consumer. The Bill has been generally approved by the Local Governments and Administrations to whom it was referred for opinion. A few suggestions have been put forward regarding the details of the system, but all these can be dealt with when the time comes for framing the rules, and none of them affect the principle of the measure itself. The only criticism of major importance has been the expression of some anxiety that the credit system will drive the wholesale trader into the hands of the big capitalist and in this way tend to frustrate the object which we have in view. We all agree that this result is one to be deprecated, although it seems possible to avert it by fixing a moderate limit to the amount of credit which may be given under the rules. But the real answer to the objection is that the Bill is an entirely permissive one; there will be no compulsion whatever to apply it to any area where an existing system is working satisfactorily; and even if it is applied and found subsequently to be unsuited to local conditions it can always be withdrawn without further legislation. There seems therefore no necessity to alter the Bill as it stands or to ask that it be referred to a Select Committee."

The motion was put and agreed to.

The Hon'ble MR. MESTON moved that the Bill be passed.

The motion was put and agreed to.

#### ASSAM LABOUR AND EMIGRATION (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved that the Bill to amend the Assam Labour and Emigration Act, 1901, be taken into consideration. He said:—"My Lord, the only criticisms we have received on the draft Bill have been in connection with the term 'labourer' as defined in section 2 (1)(f) of Act VI of 1901 and with the modifications to be introduced in contractors' recruitment under Chapter III.

"With regard to the former, it has been pointed out that, as it is intended to dispense with the taking of a labour-contract, persons recruited under the revised procedure of the Bill will not be labourers under the Act, and any provisions of Chapters III and IV relating to labourers which may be retained by the notification of the Local Government to govern their recruitment, will not apply to such persons. The Bill, however, enables the Local Government to prescribe any conditions it pleases when relaxing any of the requirements of these Chapters, and in issuing the notification the Local Government may make it a condition that such provisions of the Chapters as it desires to retain shall apply to the persons recruited under the Bill as if they were labourers.

"With regard to the second point there is no intention of in any way relaxing the procedure under which recruitment is carried on by contractors, further than to enable the actual placing of the emigrant under a contract to be foregone. The emigrant will have to be placed before a Registering Officer, who will satisfy himself that no coercion, undue influence or misrepresentation has been used. It is of importance that control should be kept over the operations of contractors, and the Bill will make no alteration in the existing procedure in this respect."

The motion was put and agreed to.

The Hon'ble MR. HARVEY moved that the Bill be passed.

The motion was put and agreed to.

#### CENTRAL PROVINCES FINANCIAL COMMISSIONER'S BILL.

The Hon'ble MR. MILLER moved for leave to introduce a Bill to provide for the appointment of a Financial Commissioner for the Central Provinces and to amend the Central Provinces Land-revenue Act, 1881. He said:—"My Lord, the necessity for the appointment of a Financial Commissioner in the Central Provinces to relieve the Chief Commissioner of much detailed work and of much work of a judicial character which now falls on him has long been



recognised and the need for strengthening the administration in this way has become more urgent since the work of the province of Berar was added to that of the Central Provinces. The Secretary of State has now sanctioned the appointment of a Financial Commissioner and the Bill makes the necessary legal provision for the appointment and the regulation of the functions to be performed by the officer holding the post.

"It was at first proposed to proceed by amending the Central Provinces Land-revenue Act, but it has been thought better to follow the precedent adopted in Burma when a similar measure was required in that province, and to draft an independent Bill which makes the required provision for the delegation of the powers and functions necessary to enable the Financial Commissioner to deal with the duties to be assigned to him."

The motion was put and agreed to.

The Hon'ble MR. MILLER introduced the Bill.

The Hon'ble MR. MILLER moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the Central Provinces Gazette.

The motion was put and agreed to.

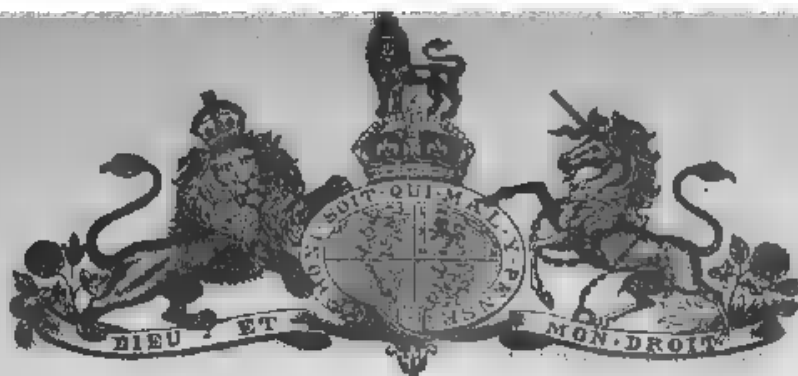
The Council adjourned to Friday, the 30th October 1908.

SIMLA :

The 11th September 1908. }

J. M. MACPHERSON,

Secretary to the Government of India,  
Legislative Department.



# The Gazette of India.

PUBLISHED BY AUTHORITY.

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SIMLA, SATURDAY, OCTOBER 31, 1908.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

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## PART VI.

Proceedings of the Council of the Governor-General of India, assembled for the purpose of making Laws and Regulations.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 AND 1892 (24 & 25 VICT., CAP. 67, AND 55 & 56 VICT., CAP. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 30th October 1908.

### PRESENT:

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.  
His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.  
The Hon'ble Mr. H. Erle Richards, K.C.  
The Hon'ble Major-General C. H. Scott, C.B., R.A.  
The Hon'ble Sir Harvey Adamson, Kt., C.S.I.  
The Hon'ble Mr. J. O. Miller, C.S.I.  
The Hon'ble Mr. W. L. Harvey, C.I.E.  
The Hon'ble Mr. J. S. Meston, C.S.I.  
The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.  
The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.  
The Hon'ble Raja Muhammad Ali Muhammad Khan, Khan Bahadur, of Mahmudabad.  
The Hon'ble Mr. N. C. McLeod.

### NEW MEMBERS.

The Hon'ble RAJA MUHAMMAD ALI and the Hon'ble Mr. MCLEOD took their seats as additional Members of Council.

### INDIAN EMIGRATION (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved that the Bill further to amend the Indian Emigration Act, 1883, be taken into consideration. He said :—" My Lord, when I introduced the Bill at the meeting of this Council held on the 10th July last, I explained fully the purpose of the measure. Since then the Bill has been published, and no objections have been received. Its character is wholly non-contentious, and its purpose is to remove an anomaly and a technical defect in the existing law."

The motion was put and agreed to.

The Hon'ble Mr. HARVEY moved that the Bill be passed.

The motion was put and agreed to.

### INDIAN PORTS BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Bill to consolidate the Law relating to Ports and Port-charges be referred to a Select Committee consisting of the Hon'ble Mr. Harvey, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. McLeod and the mover.

The motion was put and agreed to.

### INDIAN REGISTRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Bill to consolidate the Law relating to the Registration of Documents be referred to a Select Committee consisting of the Hon'ble Sir Harvey Adamson, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. McLeod and the mover.

The motion was put and agreed to.

### INDIAN EMIGRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Bill to consolidate the Enactments relating to the Emigration of Natives of India be referred to a Select Committee consisting of the Hon'ble Mr. Harvey, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. McLeod and the mover.

The motion was put and agreed to.

### CENTRAL PROVINCES FINANCIAL COMMISSIONER'S BILL.

The Hon'ble MR. MILLER moved that the Bill to provide for the appointment of a Financial Commissioner for the Central Provinces and to amend the Central Provinces Land-revenue Act, 1881, be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. MILLER moved that in clause 3 of the Bill, between the words "assigned to" and "the Chief Commissioner" the words "the Local Government or to" be inserted. He said :—" I have a small amendment to propose with the object of removing any doubt as to the interpretation of clause 3 of the Bill. The powers which the Chief Commissioner now exercises, some of which he may require to delegate under this clause, are in many cases powers which are conferred by Statutes on 'the Local Government'. Under the General Clauses Act the words 'Local Government' include the Chief Commissioner, but the converse is not necessarily true and it might be questioned, especially having regard to the form in which the clause is drafted, whether the words 'Chief Commissioner' apply to cases in which mention has been made of the 'Local Government'. The amendment will make the intention quite clear."

The motion was put and agreed to.

The Hon'ble MR. MILLER also moved that the Bill as amended be passed. He said :—" I have nothing to add to what I said in asking for permission to introduce this Bill. As to the objects of the Bill, they are to allow the delegation



of powers to the Financial Commissioner whose appointment to the Central Provinces has been sanctioned by the Secretary of State. Generally speaking, we have followed the precedent in the similar case of Burma."

The motion was put and agreed to.

#### INDIAN STEAMSHIPS LAW AMENDMENT BILL.

- The Hon'ble MR. HARVEY moved for leave to introduce a Bill further to amend the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884. He said :—" My Lord, the Inland Steam-vessels Act, 1884 (VI of 1884), and the Indian Steamships Act, 1884 (VII of 1884), at present do not apply to vessels propelled by electricity or other mechanical power. In this Bill power is being taken, by clauses 2 and 5, to apply the provisions of these Acts to motor-craft, the number of which is annually increasing.

" Clause 3 of the Bill is intended to remove the inequality which at present exists between British and foreign steam-ships, carrying more than 12 passengers between places in British India and places outside British India. Foreign ships have not hitherto been required to possess a certificate of survey under Act VII of 1884, while such a certificate is required in the case of British ships. The same procedure will now apply to both classes of vessels.

" Clause 4 of the Bill amends section 23 of Act VII of 1884. Under the law as it now stands, a foreign certificate of survey attested by a British Consular Officer at a foreign port may be accepted by the Local Government, which can then issue a certificate having the same effect as a certificate given after survey under the Indian Act. Inconvenience has been caused, particularly in the case of Aden, by the power to issue such a certificate being confined to the Local Government. In sub-section (2) of section 23 as amended, provision is made for the delegation of this power by Local Governments, when they are satisfied that the survey at a particular foreign port sufficiently meets the requirements of the Indian Act. Sub-section (3) of the same section provides for the acceptance of certificates of partial survey and docking certificates granted by the Board of Trade or any British Colonial Government. Under the law at present, although such certificates can be accepted when granted at foreign ports, they cannot be accepted when granted at British or Colonial ports. The amendment now proposed removes an inequality to which objection has been taken in practice, and puts British and Colonial certificates of partial survey and docking certificates on the same footing as certificates granted at foreign ports."

The motion was put and agreed to.

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette, the Burma Gazette and the Eastern Bengal and Assam Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

#### INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved for leave to introduce a Bill further to amend the Indian Merchant Shipping Act, 1880. He said :—" My Lord, when the Imperial Merchant Shipping Act of 1906 was passed, the Secretary of State for India asked the Government of India to consider the advisability of legislating so as to bring the provisions of the Indian Merchant Shipping Law into line with those of the new Imperial Statute. He particularly requested that legislation should be undertaken to amend the Indian Merchant Shipping Act (VII of 1880, as amended by Act XVII of 1891) by adapting it to the provisions of Part I of the Statute of 1906, dealing with the safety of vessels.

"The amendment contemplated by clause 2 of the Bill is based on section 7 of the Imperial Act. Hitherto in India coasting steamers of less than 150 tons register have been exempt from the provisions of the Act relating to unseaworthy and unsafe ships. It is now proposed to withdraw this exemption, but power has been reserved to the Governor General in Council to extend to such vessels, if they do not carry cargo, exemption from the special provisions of the Act relating to deck and load lines.

"Difficulty has been experienced in the past from the want of specific provision in the Indian law to the effect that the submersion of a ship's disc should be deemed to render a ship 'unsafe' within the meaning of Act VII of 1880, and consequently liable to detention. This point has been provided for in unmistakable language in clause 3 of the draft Bill.

"Clause 4 of the Bill amplifies the scope of section 85 of Act VII of 1880, which at present applies to foreign ships the provisions of that Act in respect of overloading and improper loading only. The provisions relating to deck and load lines will now also extend to such ships when in British Indian ports and they will thus be subject to the same conditions as British ships. But foreign ships coming into port under stress of weather will be exempted from the operation of this clause. In consequence of the possible detention of foreign ships for non-compliance with the requirements of the law, provision has been made for enabling consular officers to safeguard the interests of vessels of their respective nationalities."

The motion was put and agreed to.

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette, the Burma Gazette and the Eastern Bengal and Assam Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

#### ANAND MARRIAGE BILL.

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH of NABHA moved for leave to introduce a Bill to give legal sanction to a marriage ceremony common among the Sikhs called Anand. He said :—"My Lord, the Statement of Objects and Reasons fully explains the object and scope of the Bill, so I need not trouble Your Excellency and my Hon'ble Colleagues with any further remarks."

The Hon'ble SIR HARVEY ADAMSON said :—"My Lord, the attitude of Government towards this Bill is at present one of neutrality. We will vote for the motions that are being made today, that is to say, we give the Bill a first reading, but the question of our final support must depend on the opinions which after publication are elicited from the Sikh community, whose interests it affects. I may add that the Government of India are always ready to give sympathetic consideration to any measure which professes to aim at promoting the interests of the Sikhs, whose bravery has won the admiration of the world, and whose loyalty to the British Crown has ever been steadfast."

The motion was put and agreed to.

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH OF NABHA introduced the Bill.

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH OF NABHA moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

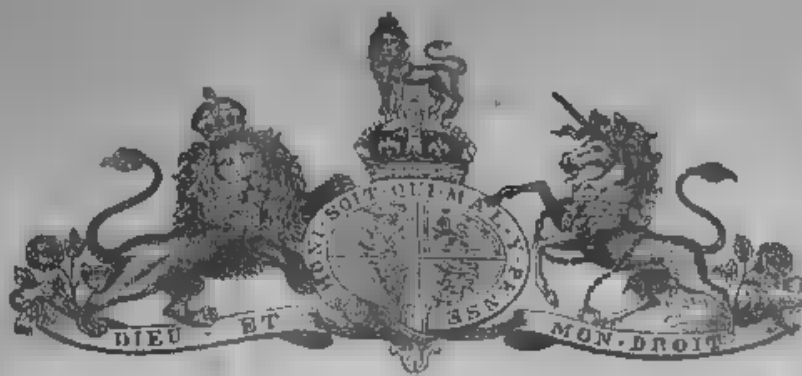
The Council adjourned *sine die*.

SIMLA;

The 30th October 1908.

J. M. MACPHERSON,

Secretary to the Government of India,  
Legislative Department.



18. DEC

# The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 12, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations.

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,  
ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS  
UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS,  
1861 AND 1892 (24 & 25 VICT., C. 57,  
AND 55 & 56 VICT., C. 14).

The Council met at Government House, Calcutta, on Friday, the 11th December 1908.

### PRESENT:

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.  
His Honour Sir Edward Norman Baker, K.C.S.I., Lieutenant-Governor of Bengal.  
The Hon'ble Mr. H. Erle Richards, K.C.  
The Hon'ble Major-General C. H. Scott, C.B., R.A.  
The Hon'ble Sir Harvey Adamson, Kt., C.S.I.  
The Hon'ble Mr. J. O. Miller, C.S.I.  
The Hon'ble Mr. W. L. Harvey, C.I.E.  
The Hon'ble Sir G. D. F. Wilson, K.C.B., K.C.M.G.  
The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.  
The Hon'ble Mr. A. A. Apcar, C.S.I.  
The Hon'ble Nawab Bahadur Khwaja Salimulla of Dacca, C.S.I.  
The Hon'ble Maung-Bah-Too, K.S.M.  
The Hon'ble Mr. W. R. H. Merk, C.S.I.

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VI A

The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.

The Hon'ble Raja Muhammad Ali Muhammad Khan, Khan Bahadur, of Mahmudabad.

The Hon'ble Mr. N. C. Macleod.

The Hon'ble Mr. J. Andrew.

The Hon'ble Mr. Maneckjee Byramjee Dadabhoy.

The Hon'ble Mr. F. A. Slacke, C.S.I.

#### NEW MEMBERS.

The Hon'ble MAHARAJA BAHADUR OF DARBHANGA, the Hon'ble MR. ANDREW, the Hon'ble MR. DADABHOY, and the Hon'ble MR. SLACKE took their seats as Additional Members of Council.

#### INDIAN PORTS BILL.

The Hon'ble MR. ERLE RICHARDS presented the Report of the Select Committee on the Bill to consolidate the enactments relating to Ports and Port-charges.

#### INDIAN REGISTRATION BILL.

The Hon'ble MR. ERLE RICHARDS presented the Report of the Select Committee on the Bill to consolidate the enactments relating to the Registration of Documents.

#### INDIAN EMIGRATION BILL.

The Hon'ble MR. ERLE RICHARDS presented the Report of the Select Committee on the Bill to consolidate the enactments relating to the Emigration of Natives of India.

#### THE INDIAN CRIMINAL LAW (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved for leave to introduce a Bill to provide for the more speedy trial of certain offences and for the prohibition of associations dangerous to the public peace. He said:—"My Lord, copies of the Bill which I am moving for leave to introduce have been circulated to Hon'ble Members together with a Statement of the Objects and Reasons which have led to its being prepared.

"For reasons which I will state presently it will be my duty to ask the Council, in the event of my present motion being adopted, to proceed at once to the consideration of the provisions of the Bill with the view to its being passed at this day's sitting, and I will, therefore, endeavour to explain, as fully and as clearly as I can, the considerations which have influenced the Government in bringing forward this measure.

"The following are some of the more prominent instances of anarchical crime which have occurred in Bengal and Eastern Bengal during the past year. On the 6th December 1907 an attempt was made to assassinate the Lieutenant-Governor of Bengal by means of a bomb exploded under his train near Midnapore. Two other abortive attempts of a similar nature on Sir Andrew Fraser's life had already been made on the railway line near Chandernagore. On 23rd December 1907 Mr. Allen, the District Magistrate of Dacca, was shot with a revolver at Goalundo. On 4th March 1908 Mr. Hickenbotham of the Church Missionary Society was shot near his house at Kushtia. On 11th April an attempt was made to assassinate the Mayor of Chandernagore by a bomb. On the 30th April a bomb intended for Mr. Kingsford who had been Presidency Magistrate at Calcutta was thrown into a carriage at Muzaffarpur and killed Mrs. and Miss Kennedy. On 2nd May the Manicktolla bomb conspiracy was brought to light. On 2nd June a serious dacoity was committed near Nawabganj in Dacca District by a large band armed with guns and revolvers, in which two persons were killed. On 21st June a bomb was thrown into a railway carriage at Kanakanara and injured an English gentleman, and there have been several similar



attempts in the same neighbourhood. On the 31st August an approver in the Manicktolla case, which is under trial at Alipur, was murdered by a revolver. On 17th September a serious dacoity was committed at Serampore. On 20th and 30th October similar dacoities were committed in Malda and Faridpore districts. Only a few days ago followed a dacoity of the gravest nature in Raika. There is ample reason for believing that all of the dacoities which I have mentioned were committed by young men of the middle classes. On 23rd September a young man was convicted of sending a bomb by post to the Magistrate of Nadia. On the 7th November the fourth attempt was made to assassinate the Lieutenant-Governor of Bengal, on this occasion with a revolver. On 9th November the Native Sub-Inspector of Police, who had arrested one of the Muzaffarpur murderers, was shot dead in the streets of Calcutta. On 13th November the principal witness in a case against the head of an association called the Anusilan Samiti was murdered and decapitated near Dacca.

"These are examples of the type of anarchical crime that has been prevalent.

"The list is by no means exhaustive, but it is perhaps sufficient to exemplify the general methods of the wide-reaching conspiracy with which we have to deal. The object of the conspiracy, and there is no attempt to conceal it, is to subvert British rule and to render the administration of justice impossible. The methods are the assassination of officials, English and Indian, indiscriminately, the murder of hostile witnesses, the terrorizing of all who oppose the conspirators, and the organization of dacoity on a large scale for the purpose of defraying the cost of the operations. One of the most lamentable incidents is that young men are made use of to carry out the purposes of the conspirators, mere boys, with no other criminal taint, the sons of respectable parents, who do not belong to and have never associated with the ordinary criminal classes, but who by the incitements of seditious teaching have been imbued with a misguided fanaticism and have been led to the mistaken belief that in committing crimes of this nature they are working for the good of their country. The Muzaffarpur murderers had hardly emerged from boyhood. The student who a few days ago attempted to assassinate Sir Andrew Fraser was a boy of eighteen.

"I have sometimes heard the opinion expressed that murderous anarchists are few in number, that they are merely a handful of young men who have been driven to fanatical frenzy by the teachings of sedition. I should be sorry to believe that there are many young men who have lost their senses to the extent of being ready to commit murder. But be they few or many, there can be little doubt that so long as conditions favourable to the creation of anarchy among the young remain in existence, this form of madness will from time to time come into evidence. The confessions of the Muzaffarpur murderer and the statement of the young man who last month attempted to shoot Sir Andrew Fraser leave no doubt as to the influences which are driving the young to homicidal frenzy. Immature minds are perverted by the doctrine of hatred to a foreign Government that is insidiously instilled into them by a section of the community that has assumed the attitude of being irreconcilable. That is the root of the matter and the prime cause of anarchist outrage by the young. It is the bounden duty of a responsible Government to close every avenue that leads to this cause. On two occasions during the past year we have legislated to strike at the origin of the evil. First, we passed the Seditious Meetings Act. It was aimed at preventing seditious orators from stumping the country and inciting students and others to acts of disorder and violence by seditious orations. This Act was, unfortunately I think, surrounded by safeguards which rendered it somewhat difficult to be put in operation on sudden and isolated occasions, but its presence on the Statute-book has exercised a great preventive influence. Since it was passed we have heard little of the campaigns of inflammatory oratory which produced so much harm in the Punjab and elsewhere in 1907. The second was the Newspapers (Incitement to Offences) Act. It was directed against incitements to murder and violence in newspapers, and I may say that since it came into operation there has been an almost total cessation in newspapers of those incitements to assassination which before the existence of the Act were a matter

of daily occurrence in a depraved section of the Press. The preventive effect of the Act has been most marked throughout India, and in the rare cases in which it has been found necessary to resort to its application its provisions have been found to be entirely adequate. For the evil which amounts to sedition but which falls short of incitement to murder or violence we have relied on a systematic use of the ordinary penal law, not with absolute success, for we cannot always get at the man who is really responsible, and also a newspaper writer can do much to incite to the subversion of order without rendering himself liable to prosecution for sedition, but with such a measure of success that it can at all events be safely said that the Indian Press is a cleaner press today than it was a year ago.

"But of late another incentive to draw the youth of the country into the fold of anarchy has come largely to the front, perhaps a greater incentive than either seditious writing or inflammatory speaking, in the shape of disloyal associations. These associations, known as samitis, and consisting of what are called volunteers, were first formed in 1902, but they did not come much into evidence till 1906. They have developed with the most surprising rapidity. Almost all districts in Eastern Bengal have their volunteer organizations, many of which owe their origin to and are branches of samitis in Calcutta. In the rural parts of Bengal they are developed to a less formidable extent. Many of the members and in some cases even the patrons may be unaware of the objects of the organizers, but the information which we are constantly receiving from districts places it beyond doubt that the majority of these associations are maintained with the object of training youths in the use of arms and fitting them to take part in a general revolution that is hoped for. Outwardly professing to be devoted to such laudable objects as keeping order at meetings and helping pilgrims at festivals, they have been largely used for the forcible boycott of foreign goods, and for terrorizing the community. The members often claim to travel free, and they have not hesitated to assault officers of steamer and railway companies who have refused them accommodation. In many cases such officers either from sympathy or from fear have refrained from enforcing payment of fares. They practise drill, engage in sham fights and parades, and encourage a martial spirit with an ultimate object which there is little attempt to conceal. These samitis have exercised a demoralizing effect on the youth of the country, causing them to neglect education and to set at naught the authority of parents, until gradually the heads of the samitis have assumed complete control over the boys. An insulting demeanour towards Europeans is constantly paraded and is a cause of common complaint. In many cases the members have been guilty of serious assaults. There is every reason to believe that dacoities have been organized on a large scale by volunteers. These crimes have been accompanied by murder and arson. Every endeavour is made to suppress evidence regarding them and to put obstacles in the way of police investigation. Only a few days ago the arrest of a captain of volunteers was followed by the murder of the principal person who was to bear witness against him. Some of those who composed the anarchist society discovered at Manicktolla garden were members of volunteer societies both in and outside Calcutta, and there can be little doubt that but for their arrest the pernicious knowledge which they obtained would have been eventually extended to the members of their own associations. In Sylhet three of the Manicktolla conspirators were arrested in their homes in possession of explosives, a fact which indicates that but for the discovery in Calcutta we might have had an equipped body of anarchists in the Eastern province. The total number of volunteers in the Eastern province is now estimated at from ten to fifteen thousand. At first the movement received some support from zamindars and native gentry. Parents did not discourage their sons from joining. But recent indications show that the community are beginning to realize the demoralizing effect that these associations have exercised on the rising generation. In Dacca in several cases parents have appealed to the authorities for help to rescue their sons who have been induced to join associations and have not been permitted to leave them. These, and other facts, which for obvious reasons I should not disclose at present, show conclusively that many of the samiti or volunteer

associations are in reality associations made for the commission of crime and for the furtherance of the anarchical movement, and that they constitute a dangerous and formidable system of intimidation and terrorism which operates so as to make it almost impossible to obtain evidence for the conviction of criminals. They are in fact nurseries for young anarchists.

"In this connection I will read an extract from a note written by an elderly Indian gentleman whose home is in Eastern Bengal and who has had exceptional opportunities of judging of the conditions prevailing among the people in the Mufassal as well as in the district towns. Speaking of these associations he says :

"They are in fact the terror of the country. They have taken to dacoities, thefts and robberies, they set fire to houses, they kidnap boys, they commit murders, and in fact there is nothing in the list of crimes they would be ashamed of, if thereby they could serve what they call their cause, that is, salvation of India and the destruction of the foreign Feringhee Government. They have their *akras* and public or private meeting places in every town, where they meet to learn playing with *lathis* or daggers. They have secret places where they practise shooting with pistols or revolvers, and they have *chelas* or disciples in almost every village in the interior of the country. These are the men who have now become the practical masters of the situation. Village men, rich or poor, submit to their dictum in ninety cases out of a hundred, simply from fear. Shopkeepers act up to their instructions because they know that disobedience will bring upon them disastrous consequences. Even the women of the village, cultured ladies and the illiterate maids and matrons, ask them what cloth to put on, when to fast, when to weep and what to do with their boys. The Government ought to be solemnly assured that the whole country would rejoice and feel a sense of relief if the aforesaid *akras* and *samitis* are shut up at once. . . . A large portion of the people who are now suspected as seditionists are so from fear. They fear the anarchists and their volunteers who are strong in the field. They fear to be attacked at night by dacoits and incendiaries, or to be done to death by the political assassin's dagger. If they find that the Government is strong enough to give them real protection, they will rejoice at heart, and with thanks to God and the Government of the country, cut off all connection with the agitators for good."

"I now turn to another subject, the means provided by the Criminal Procedure Code for bringing anarchical crimes to trial. These crimes generally involve an element of conspiracy, and their prosecution is a matter of great complexity. The witnesses are numerous, each giving his quota of evidence on, it may be, only one link of the chain that connects the accused with the offence. I will assume that the police have discovered the existence of an anarchical conspiracy, and acting on a reasonable suspicion have arrested the accused. It takes a long time to unravel the web of a conspiracy. This is always a tedious task in India, where the public are disinclined to come forward and give assistance to those who are investigating the offence, and it is a still more tedious task when the offence has a political aspect and the tendencies to suppress evidence and terrorize the witnesses, to which I have already referred, come into play. There must be considerable delay in such cases before the offence is completely investigated and is ready for trial. Then come protracted proceedings in the Committing Magistrate's Court, and delays while applications are being made to the High Court on all sorts of interlocutory matters. Meanwhile the Press are not only reporting the proceedings but in many cases, owing to the imperfections of the law of contempt, are commenting in leading articles on the features in a manner which cannot but interfere prejudicially with the serenity of a trial where political issues are at stake. Next come the proceedings in the Sessions Court in which all the evidence is heard over again. And finally comes the appeal to the High Court. The result is that cases of a complex nature which excite strong

political feeling are pending before the various Courts and are held up to public notice for an utterly disproportionate time. The 'Manicktolla Bomb Factory' was discovered on 2nd May. It is now the middle of December and the case is still dragging out its weary length in the Sessions Court. It is believed that the Sessions trial will not be completed for some months, and if it results in a conviction, the appeal to the High Court may occupy some months more. It is not anticipated that the trial will be finally concluded within a year from the date of arrest of the accused. Meanwhile the presence of a large number of persons under trial at Alipur in a case of a political nature has proved to be in itself a source of danger. For a whole year the proceedings are a daily subject of comment in the newspapers, some of which have habitually commented on them in a highly improper way. This one case alone has been sufficient to keep the whole country in a ferment and will continue to do so until it is finally brought to a conclusion. Similar remarks apply to the recent inquiry at Midnapore, and we may expect the same result to follow when other cases which are now in an advanced state of detection come before the Courts. The fact is that the ordinary Criminal Procedure of India is ill-suited to cases of this kind. The machinery is framed in the interests of a simple people liable to oppression in the name of the law. The object aimed at in every turn is the laudable one of protecting the innocent. But India has changed since the lines of the Criminal Procedure Code were first drawn, and the most notable change is the enormous increase of lawyers of the greatest ability and of infinite subtlety who are available for the defence of accused persons. The result is—and I do not blame the lawyers who are perfectly right in taking every lawful advantage in the interests of their clients—that the main difficulty now lies not in safeguarding the innocent but in securing the punishment of the guilty. It is in my opinion a question which is daily gathering importance in India, whether the elaborate precautions of our Criminal Procedure are not capable of considerable simplification. I am throwing this out only as a reflection of my own. The simplification of procedure that is aimed at in the present legislation is not intended to affect the criminal law generally, but merely to provide for the more speedy trial of such cases of complexity as may arise from anarchical conspiracies.

"I have now explained the conditions which necessitate legislation and commented on the objects at which the Bill aims. These objects are twofold: (1) to obtain the prompter decision of criminal cases of a complex nature arising out of an anarchist conspiracy; (2) to obtain an effective way of dealing with criminal associations. How these objects are met I can perhaps best explain by going through the Bill.

"The first part of the Bill contains the procedure for bringing cases of the kind to which I have referred before a Bench of the High Court for trial. The Bench will consist of three Judges. The trial will be without jury.\* It is perfectly obvious that in the conditions which exist while anarchy is in the air, and while public feeling is in a state of high tension, trial by jury of such cases is most unsuitable. Jury trial is still in its infancy in India, and it is only within the original jurisdictions of the High Courts that offences against the State are now triable by jury. Anarchical crimes, whatever section of the Penal Code they may fall under, are in substance offences against the State. I do not think that any argument is required to justify the substitution of three Judges of the High Court for a jury in such cases. In order to obviate the long committal provision is made for a simpler method of bringing the case to trial. The first stage will be the arrest of an accused person and the bringing of him before a Magistrate. These steps will be taken under the ordinary law. At any time after the Magistrate has taken cognizance the Local Government, with the previous sanction of the Governor General in Council, is empowered to make an order applying this part of the Bill to the case. The next stage is an inquiry by the Magistrate in the absence of the accused in order to ascertain if the evidence is sufficient to put the accused upon his trial. If in his opinion the evidence is insufficient the accused will be discharged. If, on the other hand, the Magistrate finds that the case is established *prima facie*, he will frame charges and furnish the accused person with a copy of the charges and of the evidence against him, and direct that he shall be sent to the High Court



for trial. The accused will then be permitted to furnish to the Clerk of the Crown a list of the persons whom he wishes to be summoned to give evidence in his defence. The procedure in fact may be described briefly as differing from the existing committal procedure only in being *ex parte*.

"The Bill provides further that after the Local Government has directed that the provisions of the Bill shall apply to the case, bail may be refused if there is reasonable ground for further inquiry into the guilt of the prisoner. The question whether there is reasonable ground is one for the Magistrate to decide. The existing law is that a person accused of a non-bailable offence shall not be released on bail if there appear reasonable grounds for believing that he is guilty. We think that in cases of anarchical crime, where a system of terrorising has been established, it is necessary that during investigation and inquiry the accused should be detained in custody so long as a reasonable ground remains for further inquiry into his guilt.

"A further provision of this part of the Bill refers to witnesses: cases have occurred in which the murder of witnesses has prevented their evidence previously recorded from being admissible in subsequent stages of the case. In an ordinary committal, if a witness were examined, and tendered for cross-examination, and then died, his evidence would be admissible at the Sessions trial, even although he had not been cross-examined. In the procedure which I have described there can be no opportunity for cross-examination. The Bill provides that when a witness has been examined by the Magistrate, his evidence will be admissible before the High Court if the Judges composing the Bench have reason to believe that his death was caused in the interests of the defence. The object is to remove an incentive for murder. I do not think that this provision requires any special justification. Of course the weight of the evidence recorded without cross-examination is a matter entirely for the High Court to determine.

"As regards the offences that may be referred for trial to the special tribunal, a considerable discretion is left with the Government. One anarchical crime may be a simple case which can properly be tried by the ordinary Courts. Another may be a long and complicated case which there would be advantages in referring to this tribunal. We have included a wide category of offences. It is intended that the power of transfer shall be exercised only in cases which, from their complexity or for other special reasons, cannot conveniently be tried by the ordinary process.

"For the procedure enacted in this part of the Bill I claim that while giving the accused a fair trial it will greatly shorten the proceedings in complex cases, and will at the same time put a stop to the publicity and improper comments which have characterized the Alipur and Midnapur cases and kept the public mind in a condition of tension for so many months. The preliminary inquiry, held *ex parte*, and deprived of the accompaniment of lawyers, whose name in these cases is legion, will be greatly curtailed. As the trial will be held before the highest tribunal in the land, the decision will be final. There will in fact be only one public trial instead of three. And last, but not least, the trial will take place in a Court which has the fullest power to deal with contempts, and which will not be compelled to tolerate improper comments on a pending case.

"Part II of the Bill deals with associations. It defines an association in broad terms. It then defines an unlawful association as an association—

- (1) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or
- (2) which has been declared to be unlawful by the Governor General in Council.

"The next clause gives the Governor General in Council power to declare any association to be unlawful when he is satisfied that it interferes with the administration of law or the maintenance of law and order, or constitutes a danger to the public peace. Then follow the penal clauses, which are two, the first making it punishable up to a term of six months' imprisonment to take part in the meetings of an unlawful association or to contribute or receive or solicit

contributions for it or in any other way assist its operations, and the second making it punishable up to a term of three years' imprisonment, to manage or assist in managing or promote the holding of meetings of unlawful associations.

"The effect of these provisions will, we hope, be in great measure preventive. We believe that many of these dangerous associations have a nucleus of organizers, an inner circle, who do the mischief. They entice the young to join them and gradually initiate them into disloyalty and vice. At the same time, by the system of terrorism which they establish, they induce many older persons who have no real sympathy with their objects, to help them with subscriptions. We believe that the effect of declaring an association unlawful will be to separate from it many of the young and comparatively guiltless, and also to deter older persons from giving it henceforth the assistance, pecuniary and otherwise, which from inclination, thoughtlessness or fear, they have given it in the past. We hope to separate the waverers from the real criminals. Those who continue to be members, or to take part in the operations, or to assist in the management, or to subscribe to the funds after an association has publicly been declared to be unlawful, will know that they are breaking the law, and will only have themselves to thank for the consequences. In the debate on the Seditious Meetings Bill I explained why in India it is necessary to give arbitrary powers for the purpose of prevention. The reason is that the public are disinclined to support the authorities by furnishing the information which is required in order to put the ordinary law in motion. In England it has happened that bomb conspiracies have been brought to light through information given to the police by chemists from whom large purchases of acid have been ordered. When have we ever obtained information of this nature from chemists in Bengal? But while prevention is an important aspect, the Bill does more than merely provide for this purpose. We trust that its provisions are strong enough to bring to conviction and punishment the organizers and members of at least the most criminal of these associations without the *locus penitentiae* which is provided by the Executive Government's intervention.

"I have now explained, I hope clearly, the necessity for legislation and the provisions of the Bill. I have only to add that it is to apply in the first instance to the two Bengal provinces, but that power is given to the Governor General in Council to extend it to other provinces.

"And now, my Lord, I will state the reason which has induced the Government to adopt the unusual course of introducing the Bill and recommending that it should be passed through all its stages at a single sitting of the Council. We consider that to have dealt with this question in the manner in which Bills are ordinarily dealt with, would have been inexpedient, because the public mind is in a condition of tension, and we think it most undesirable to take the risk of starting an agitation, during the period which would be occupied in passing the Bill, which might not improbably intensify the evils which the measure is intended to repress."

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON introduced the Bill.

The Hon'ble SIR HARVEY ADAMSON moved His Excellency the President to suspend the Rules of Business to admit of the Bill being taken into consideration.

The PRESIDENT declared the rules suspended.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be taken into consideration.

The Hon'ble MR. DADABHOY said:—"My Lord, I feel I cannot content myself by giving a silent vote on this important measure. The Bill, which it is now proposed to be passed into law, has been in fact anticipated by the general public during the past few weeks, and I am sure I am not much wide of the

mark when I state that it is in consonance with the common wishes of the representative and influential bodies in Calcutta and elsewhere that this measure has been undertaken. The general public have been greatly distressed by the seditious movements that have sprung into existence during the past 18 months, and more particularly during the past few months of the present year and have been deeply grieved and alarmed by the cowardly assassinations and attempts at assassination and of the possibility of a repetition of similar crimes in future, and it is therefore no wonder that the discriminating section of the public should loudly call for legislation of a special character which will promptly and vigorously suppress the prevalence of sedition, criminal violence and organised conspiracies in India, and particularly in Bengal.

"It would be sheer imprudence and want of prescience to under estimate the great danger which is confronting us. We must all realise that the situation is getting more and more critical, and public safety and security are being jeopardised. But fortunately the ulcer of discord and disaffection is only on the surface, and it is a business of the greatest statesmanship to grapple with the situation with firmness and promptitude.

"My Lord, I am myself most unwilling to see the introduction of any legislative measure that will take away from any person his right to be tried by the settled rules, organised laws and well established procedure of his country, yet notwithstanding that in some quarters serious objection may be taken to the introduction of this measure, I think the continuous disturbances of the public peace which have taken place during the last few months, and which have unfortunately prevailed long enough and have kept the public in a state of consternation, is amply sufficient to prove the inefficiency of ordinary criminal procedure in times of stress and emergency, however well it may have suited normal conditions. The immediate suppression of organised crime is a matter of no small political and social importance, which in the opinion of all thoughtful men admits of no delay or vacillation. It is now perfectly evident that for the preservation of the public peace and safety and for the suppression of organised crime and the speedy punishment of its promoters and instigators, effective measures should be adopted as expeditiously as possible, and that object can only be attained by taking up legislation of the kind now before the Council so as to afford to the law-abiding and peaceable general public the protection which they are entitled to from the Government of the country.

"Your Excellency only the other day, while addressing the Taluqdars of Oudh, very appropriately remarked 'that the British Raj is determined, as it has ever been, to safeguard the populations committed to its charge. It is determined to shut the door in the face of a ruinous anarchy, and, for the special difficulties with which it has to deal, it will not hesitate to forge special weapons.' These are words of true statesmanship, and I venture to assure Your Excellency that in carrying out that policy Your Excellency's Government will have the fullest and whole-hearted support of all right-thinking and law-abiding people who have at heart the true interests, welfare, and the prosperity of this country. The question before us is not whether the Government has established any necessity for any change in the procedure that is now followed in criminal trials, but whether the ordinary processes of law subsisting at present are sufficient for dealing expeditiously and with vigour with this new phase of crime which has made its appearance. Any variation in the prescribed methods of procedure will necessarily cause at first some degree of inconvenience and possibly dissatisfaction, but it cannot for a moment be questioned that the existing procedure is entirely powerless to stem the tide of political fanaticism that is a serious menace to the peace of the country. The Alipur trial is one of the many instances of the proof of the unsuitability and inefficiency of our present laws in cases of serious political offences, and it is therefore indispensable that the administration of the law should be so strengthened and fortified by the creation of special tribunals with plenary powers as to deal efficiently, expeditiously, and at the same time justly, with political crime in all its diversified aspects.

"The Bill is simple in its nature and will enable Government to deal effectually with all who are in any way concerned with disseminating the cult of —

sedition and treason. I believe that there could not be found in the length and breadth of the allied Provinces of Bengal any considerable number of persons who would take exception to the Act. In justice to the Bengali race, I would say that with their keen intelligence they will as a people see nothing in the Act of an arbitrary or objectionable character, and I believe that there is a very general desire among them that conspiracies and sedition should be suppressed even at the cost of some abridgement of the liberty of the people. But the measure in no sense interferes with the liberty of the people, it only aims at suppressing and eradicating the mischief attendant on protracted trials and dispenses with unnecessary publicity which in cases of political trials in this country is proved by experience to be undesirable. The dispensation of trial by jury before a Special Bench need not be regarded as in the nature of any serious hardship, considering that it is counterbalanced by such trials taking place before three Judges of experience and independence; nor does the provision about refusing bail, if there appear to be sufficient grounds for further enquiry, seem to be illogical or particularly oppressive. The provision incorporated in section 13 of the Bill is also fully justified by the unfortunate event which took place lately in the Alipur Jail. I allow that exception may be taken to some of the minor details of the Bill, but this is no occasion to cavil with details. We must approach the Bill in a broad-minded spirit of statesmanship.

"The Bill provides also for the suppression of unlawful associations, dangerous to the public peace, and also for the punishment of managers and promoters of such associations. These associations have added to the difficulty of the situation, they are nothing more than organised bodies for the encouragement and promotion of acts of violence and intimidation.

"I am of opinion that these associations or conclaves, where a carnival of sedition is systematically carried on, where revolutionary doctrines are daily preached, where violent and mischievous lies are daily disseminated, where youthful and susceptible minds are led astray and continuously infected with the venom of sedition, distrust and opposition to Government, where ignorant and malicious vilification of Government measures is indiscriminately indulged in, where funds are collected and often extorted under misrepresentations—these associations should no longer be permitted to exist, and the interests of society as well as of good government alike require their immediate and wholesale extinction.

"My Lord, I am not an alarmist, but the circumstances now prevailing are of such importance and gravity as to warrant the passing of a law of this nature in the manner Government have adopted. At the present time Your Excellency in Council is doing your best to grapple with a situation of an exceptionally trying nature, and Your Excellency's Government stands in need not only of silent sympathy but of all the assistance that it can obtain. You have to deal, my Lord, not only with an unusual form of political crime, but simultaneously work out a programme of wise, timely and far-seeing reforms that will meet new aspirations and satisfy the new conditions that have of late arisen in this country.

"I am glad that this legislation is in the first instance only made applicable to the disturbed Provinces of Bengal. The other Presidencies are happily free from a state of chronic disturbance. I pray that Government may find no occasion to extend the Act to any other part of the country. But, my Lord, though I support this legislation, I must most distinctly state that I should not like to see it permanently placed on the Statute-book of our country, and I would urge that as soon as a normal state of things is restored in Bengal and Eastern Bengal,—and I trust that may be not far distant,—Your Excellency's Government will set itself to repeal this measure. I think it would be advisable and more popularly acceptable if the Hon'ble mover of the Bill could see his way to insert a provision limiting the operation of the Act for a stated period only.

"I shall conclude, my Lord, by stating that the value of any particular measure is not always correctly appraised when it is first introduced as when actually applied and put in operation. I have no doubt that time alone will show the wisdom and propriety of this measure and will establish the benevolent intentions of Government."

The Hon'ble RAJA ALI MUHAMMAD KHAN said :—" My Lord, the reasons which have led to the introduction of this Bill are as well known as they are deplorable. I can say only one word in its support, that it comes before us none too soon. There is a notion abroad that the existing law is sufficient to meet all kinds of cases and that harsh and summary measures are not in keeping with constitutional methods of Government. In every age and country, political offences have been treated separately from ordinary offences and we can find a parallel for similar legislation in the various forms of enactment for high treason in the history of civilized England. And what are those misguided and irresponsible people guilty of, who from a mistaken sense of devotion to the cause of their country aim at getting a cheap notoriety by committing outrageous assaults on the representatives of Government? They are not only traitors to the Crown but are the worst enemies of their own country. I believe sincerely that the measures proposed are not of a vindictive nature, and that Your Excellency will not lose sight of the greatest good of the greatest number on account of the evil deeds of a wicked few. While supporting the Bill strongly in substance, I would observe that in my humble opinion the remedy prescribed seems inadequate. However desirable it may be to secure the speedy punishment of offenders, it is not likely to strike at the root of the evil or to prevent further outbursts of anarchism. I would suggest the necessity of continued precautionary measures and of tracking that wild creature, called the anarchist, in his secret haunts. Once the policy of *laissez faire* on the part of Government is changed, the attitude of the people will change accordingly and the united efforts of both may go a great way to lessen, if not to remove, the danger."

The Hon'ble MAHARAJA OF DARBHANGA said :—" Your Excellency, the measure which has just been laid before the Council is one framed to meet exceptional circumstances by exceptional methods. The Bill is to provide for the more speedy trial of certain offences and for the prohibition of associations dangerous to the public peace. The ordinary forms of criminal procedure in the cases of persons accused of anarchy, sedition, incitements to murder, inflammatory speeches and writings against the Government, or any of the other offences scheduled in the Bill, having been tried and found wanting, I think your Government is right in asking for the power required to bring all such offenders to a speedy trial. I should have liked to have had more time to examine the clauses of the Bill in detail, but as this has not been found to be practicable, I must necessarily confine my observations to criticism of a more general nature. I give my hearty support to this measure, all the more because I am convinced that the crimes specified are confined within a very limited sphere, and are abhorred by an overwhelming majority of the inhabitants of the two Bengals, who are loyal and law-abiding and upholders of all that makes for peace and social order. And here may I put in a word on behalf of a much maligned class, in connection with the recent events of an anarchical order. I mean the students of our colleges. Because a few misguided young men acting under bad advice have been guilty of grave offences against religion and law, it has been assumed in certain quarters that the students as a class are on the side of anarchy and sedition. There never was a fouler calumny. There may be of course a few black sheep to be found in all classes. But we do not brand a whole class with the tar-brush because an exceptional few have disgraced themselves by their bad conduct. The students have undoubtedly experienced an awakening through the light of education and the infusion into their minds of Western knowledge, and it is natural that these young men should aspire to a higher and more useful political life than has hitherto been their lot, but all their agitation towards that end should be of a healthy order, entirely in conformity with loyalty to the Government and to the peace of the community.

" My Lord, I give my hearty assent to the measure now before the Council. The second part of the measure I acknowledge to be right, and the absolute power vested in the Governor General in Council to declare certain associations unlawful, and as such liable to the penalties provided under the Act, will I think prove to be the most powerful deterrent to the formation or to the continuance of such unlawful assemblies. I have every confidence in the



wisdom of the Governor General in Council that the absolute power thus placed in his hands will be used with great discretion, although there is nothing said in the Bill of the procedure which will be taken in order to bring the existence of unlawful assemblies to the knowledge of the Governor General in Council to enable to him wield his power with judgment. I am confident that if Your Excellency or the Hon'ble Member in charge of the Bill would give us some sort of outline of the methods to be employed in finding out whether certain assemblies are lawful or unlawful, it would tend to allay a feeling sure to arise in the community, as to whether law-abiding households might be liable to receive domiciliary visits from the police, either with or without warrant, and at all hours of the day or night. I am sure it is the wish of the Government that no peaceable household should be disturbed, but we would like an indication of the methods to be adopted to find out the existence of unlawful assemblies, while at the same time safeguarding loyal people from police espionage.

"My Lord, the greatest social interest of India at the present day is internal peace and concord. While it is all very well to repress crime with a powerful hand, Your Excellency gladly acknowledges that along with this there must also be the accompanying policy of conciliation and the granting of those reforms which have been demanded by all the leaders of Indian thought who have the best interests of the country at heart. And I am persuaded that if the reforms to be announced next Monday are at all on the general scale—as I believe they will be—a new era will dawn on India of peace and progress, and a political climate will be developed, in which loyalty and goodwill will grow from more to more, and in which anarchy and sedition with their kindred disorders will have no room to live. Towards the bringing in of this happier state of things, it is to be hoped that all the races in our land—European, Hindu and Muhammadan alike—will conspire together in promoting the best interests of India along those paths which will lead to her exaltation amongst the nations in all that constitutes the qualities of a great people.

"My Lord, with these few observations I heartily support the measure before the Council, and earnestly trust, that as a latent power in the hands of the Government, the very knowledge of its existence will be such a terror to evil-doers, that its provisions will never require to be put into active operation."

The Hon'ble MAUNG BAH TOO said:—"My Lord, all that I have to say is that I think it my duty to support the Government of India in a measure which, after full consideration, they believe to be necessary in order to suppress anarchism. I will vote for the Bill."

The Hon'ble NAWAB BAHADUR KHAWAJA SALIMULLA OF DACCA said:—"With Your Excellency's permission I beg to say that it is a great pleasure to me to accord my warmest and most hearty support to the Bill introduced today by my friend and colleague Sir Harvey Adamson, to provide for the more speedy trial of certain offences and for the prohibition of associations dangerous to the public peace. Two years ago, in my budget speech, I had pleaded in strong terms, in Your Excellency's Council, for some such measures. I had deplored the fact of treason being openly preached in our towns and streets—the masses encouraged to kill, hurt, stone and assault Englishmen and loyally disposed Hindus and Muhammadans for no fault except their steadfast loyalty and unwillingness to countenance any movement against constituted authorities, and had also drawn attention to the fact of loaded pistols being found in the hands of children in the open streets of Calcutta. My Lord, it was for this reason I was anxious to put a question in the Council as to how far Government were cognizant of the miscreants who were doing the kind of mischief of setting class against class; but I was advised not to do so. My Lord, I may be permitted to quote the following from my speech, which runs thus:—"The loyally disposed Hindus and Muhammadans feel that Government must, with a strong hand, put down at once and once for all what is going on round about us before a serious conflagration takes place. My Lord, I know that I shall be taken as an alarmist, but, my Lord, 'Tis the coming events that cast their shadows before," and I am prepared for all the contumely and odium that will be cast on me if I only succeed in

inducing Government to pause in the course of putting unlimited confidence in the lip-loyal sayings and doings of these agitators, and allowing them a free hand so long as they keep outside of the pale of what is defined in the Penal Code as sedition and treason. For I feel with my people that the time has come when we can no longer remain quiet. I, however, openly declare that we do not want, as many Europeans are said to be doing, another mutiny, in order that the growing insolence of the *badmashes* and of these unscrupulous persons may receive their deserts. We only appeal to Government to put down with a firm hand every attempt made to sow the seeds of disaffection and to seduce the people from their faith and belief in Your Excellency's Government. These remarks, unfortunately, have been almost prophetic in their fulfilment. Had my humble suggestions been accepted by the Government two years ago, the revolutionary tide of anarchism, lawlessness and hooliganism, which has engulfed many a hearth and home in gloom and brought desolation and woe to many innocent persons, would have been at once stemmed. The extraordinary measure of creating a special tribunal which recent events have called forth is, in my humble opinion, yet insufficient and inadequate at the present juncture to meet the extraordinary necessities of the case. In the interests of good government; in the interests of public peace, progress and prosperity; in the interests of the youths of our country whose careers are blasted—enmeshed and entangled as they easily are in the snares of designing schemers and conspirators; in the interests of parents and guardians whose fondest hopes are shattered,—I venture to suggest that a stronger measure than that contemplated should be adopted to effectively eradicate this deep-rooted evil with its possible ramifications all over India. My Lord, public peace is disturbed. Dynamite, bombs, revolvers are in the air—the very weapons which, in all ages and in all countries, have been the handmaids, *not* of the restorers of their country's Liberty, but of the disturbers of their country's Tranquillity. The sympathy of our rulers and the good will of the British people, to which we all owe so much, are in danger of being estranged from us. Do they not pause to think that the very Burke and Mill, and a host of others, by whom they adjure and whose doctrines they have so ill-grasped, belong to the same nation who have opened our eyes and placed before us the dazzling vision of Western liberty and freedom? But 'Liberty', says Mrs. Besant, 'is too holy and divine a goddess to descend upon a country whose people lack in self-control, discipline, order and purity of heart. Responsibility, sense of public duty, study of history and ways of the Free People and the virtues of self-control and self-abnegation are essentially necessary in a people aspiring for freedom.' In short, they should remember the old adage that first of all deserve and then desire. Providence never withholds its blessings from those who are really worthy. England never burst through her bondage in a single day. She required years—nay, centuries—of patient preparation in moulding her national character, in uplifting her commoners, in regenerating her nobles, before she attained her goal and before she could occupy the position she is occupying today. *Festina lente* is as true when Æsop wrote his Fables as it is today. And—

'Heaven is not reached at a single bound

But we build the ladder by which we rise,

From the lowly earth to the vaulted skies,

And we mount to a summit round by round.

Wings are for Angels but feet for men!

We may borrow the wings to find the way;

We may hope and resolve and aspire and pray,

But our feet must rise or we fall again.'

"At the present moment, however, when the whole country is being convulsed by a handful of mischief-makers, what is our duty to our King, to our country and ourselves? Are we to sit still with folded hands and remain passive spectators of what is going on, or are we in duty bound to bestir ourselves, in order to discountenance sedition and to assist the Government in its efforts to advance the welfare of our people and maintain the supremacy of law? We all know that the British Raj is built on too solid a foundation

to quake at the flash of the assassin's dagger, or the fiery vociference of the demagogue, or the scurrilous writings of the seditious publicist. This movement, if anything, forebodes a Reign of the Terrorist, and as such it is high time that we should devise stronger and more effective means and methods to counteract this evil which is a menace to peace and the true liberty of our country.

"With these few words, my Lord, I support the Bill."

The Hon'ble MR. APCAR said:—"My Lord, on behalf of the Bengal Chamber of Commerce I cordially support this Bill. On referring to the joint letter from the Chamber, the Trades Association and the European and Anglo-Indian Defence Association, there were three points mentioned in it which I am glad to see have been introduced into this Bill and I assure you will meet with the greatest appreciation. The Hon'ble Mover has so thoroughly explained the objects of the Bill and the reasons which have necessitated it that I feel it is not necessary for me to dilate further on them. I accept what he has stated as facts, and I am sure the Bill will meet with the cordial approval and support of the commercial community."

The Hon'ble DR. RASHBEHARY GHOSE said:—"My Lord, when the Executive have deliberately come to the conclusion that they should be invested with new powers to maintain law and order, it is, generally speaking, the duty of every member to support the Government; specially at a time like this, when they have to face a great and serious, though not a widespread, evil. I am, therefore, glad to be able to say that I can honestly vote in favour of the Bill. But there is one clause in it, and only one, which I have not been able to bring myself to accept. I mean the clause which gives the Executive power to suppress associations which they may deem to be unlawful.

"In proposing to take this power to day the Government, I venture to think are following a not very logical process. In denying the necessity for urgency when the Bill which afterwards became the Irish Criminal Law and Procedure Act of 1882, was before the House of Commons, the present Secretary of State for India said—'The Government are going to work in an inverted order—they are beginning with a policy which will aggravate the existing evil and will weaken and spoil the operation of whatever future remedies they may be able to propose.'"

"My Lord, the long promised reforms are now in sight. We shall know them on Wednesday next, when I am confident they would be gladly welcomed by all His Majesty's subjects in India. Coercive legislation, in my humble judgment, should, if necessary, have followed, not preceded, conciliation. The resources of coercion are, we have been told, inexhaustible. So too, I submit, is the store of healing methods, which are not unfrequently more potent than coercion and to which, except under the gravest necessity, the Liberal party in England have always trusted, even in a country in which conciliation does not always make much impression on the people. And this leads me to remark that the anxiety of the Government to pass this Bill in one sitting may not improbably create unnecessary alarm, not indeed in India but in England, where an ill-informed Press seems to be under the impression that something like a revolution is impending in this country, and that all law and order have ceased to exist.

"My Lord, we have heard a good deal of the panacea of a firm and resolute Government. But though it has not been a very brilliant success in another country, if I could persuade myself that India or any part of it was in the condition of Ireland not very long ago, I would have assuredly given the Government my humble but steady and unflinching support and voted for the whole Bill with all my heart and soul. But I ask,—Is there any network of secret societies in this country? Any association like the Irish Land League? Anything like the Reign of Terror, which hung as a dark and ominous cloud over Ireland? I would also ask,—Has the ordinary law been found inadequate to deal with disorder? The Irish Prevention of Crimes Act of 1882 opened with the preamble—'Whereas by reason of the action of secret societies and combination for illegal purposes

in Ireland the operation of the ordinary law has become insufficient for the repression and prevention of crime.' This is nothing but the bare truth, for we all know that at that time Ireland was in a state of revolution and society—it is no exaggeration to say—was on the very verge of dissolution. In this country however, anarchism is only a passing distemper, and it has yet to be shown that the operation of the ordinary law is insufficient for its repression and prevention.

• "My Lord, no Irish Viceroy had to face greater difficulties than Lord Spencer, nor was put to a severer trial; and yet he succeeded where Mr. Forster had failed, because he possessed an inexhaustible store of that 'steady-eyed patience' which, we are told on very high authority, is essential in an Irish Viceroy. Your Lordship, if I may say so without impertinence, possesses in an equally large measure all those qualities which enabled Lord Spencer to restore law and order in Ireland without the help of stringent Coercion Acts. We know also that Your Lordship is not an admirer of resolute Government, and the country cannot be too grateful to you for the nerve and firmness which you have exhibited throughout these anxious days. It is, therefore, peculiarly painful to me to have to oppose any part of this Bill. The responsibility too, which I have ventured to take upon myself, is very, very great. But I owe it to myself, I owe it to Your Lordship, to whom I am indebted for my seat in this Council, I owe it to the party to which I belong—the educated classes as they are generally called—to speak out my mind.

"The educated classes, my Lord, have been taught and taught by their rulers, to whom they owe a debt they can never hope to repay, to regard Government even by the best Executive in the world with distrust. Sir Henry Maine, who according to Lord Morley was too much of a bureaucrat alike by temperament and training, said many years ago: 'The educated youth of India certainly affect a dislike of many things which they do not care about and pretend to many tastes which they do not really share, but the repugnance which they invariably profess for discretionary Government has always seemed to me genuinely hearty and sincere.'

"My Lord, the educated classes have been long accustomed to sneers and taunts, gibes and calumnies, but I should have thought that they would at least be spared the insinuation that they are disloyal. What! The educated classes disloyal? They must be so many lunatics if they are really disloyal. Are hundreds of thousands of men to be branded as disloyal, merely because a few misguided persons, mostly boys, have been betrayed into silly treasonable practices? We are not Pharisees. We do not, my Lord, wear our loyalty on our sleeves, because our loyalty is, and ought to be, above all suspicion; because to doubt it is to doubt our sanity. I repeat, our loyalty ought to be above all suspicion, for we know that the continuance of British rule is absolutely essential to our gradual growth as a nation. We cannot, therefore, too strongly condemn anarchism or anything wearing even the appearance of treason, because it would tend to alienate our rulers from us. We condemn anarchism because it would retard all progress, as it is a fatal delusion that concessions can be wrested from the people of England by violence. We condemn anarchism, because its spread would end in the dissolution of all that holds society together. And we condemn anarchism most, because it is opposed to the laws of God as well as of man. It is perhaps never safe in such cases to indulge in predictions, though I may say without boasting that some of my forecasts have proved only too true. But this I may assert without much rashness: that anarchism is bound to die out. It will not, I fear, be killed by Coercion Acts. But it will die, it is bound to die, because it is in opposition to the best traditions of our race—traditions which are much older than that gospel of love which was preached eighteen centuries ago—older even than the teachings of Goutama Buddha. Anarchism, I repeat, is bound to die, because it is in opposition to all those precepts of pity and of compassion for the meanest of sentient beings which are our great, our priceless heritage,—precepts which still guide and inspire the life of every true son of India and which will continue to guide and inspire it, till civilised man exchanges all the gentler, purer and higher qualities of humanity, for the tiger instincts of the savage."

The Hon'ble MR. ERLE RICHARDS said:—"I desire, my Lord, to make a few observations to this Council in supplement of the speech which my Hon'ble colleague addressed to us at an earlier stage of these proceedings. There are legal points arising on this Bill on which, as legal adviser of the Government, I think it proper to offer explanations, and behind them there is a point of general policy on which, as one who has had the honour of being a member of Your Lordship's Council during the past few years, I have to make some remarks.

"And first as to the Bill itself. The main object of Part I is to set up a Special Tribunal in order to insure the more speedy trial of certain offences. It is essential in the interests of the public itself that offences against the State and crimes which from their nature cause widespread alarm among the public should be tried with promptitude. If the accused be guilty, punishment is robbed of its deterrent effect by delay; if he be innocent, the protraction of the trial is a great hardship on him. Moreover, the presence of prisoners under trial for offences of this kind is of itself a source of disquiet and unrest among the public, and should not be permitted to continue longer than is necessary. If proof were needed of the delays which are involved in the present system I would refer the Council to the case which is at this moment under trial in the Sessions Court at Alipore. In that case proceedings were initiated before the Magistrate on the 18th of May; the prisoners were committed for trial on the 16th of September; the trial is still proceeding before the Sessions Judge, and so far as can be judged from the public prints shows no signs of coming to an end; and after it is over there can be an appeal to the High Court, which of itself must involve a lengthy hearing. And the Alipore case does not stand alone. There are unfortunately other conspiracies in existence as my Hon'ble Colleague has told us equally widespread. It is most necessary that there should be some speedier means of disposing of cases of this character. Under the present procedure in such cases as that at Alipore, there are practically three trials: the first before the Magistrate, the second before the Sessions Judge, the third before the Court of Appeal. The Bill proposes that there shall be only one trial, that there shall be only such preliminary proceedings as are necessary to ensure that the charge is justified and that the Court which tries the case will have sufficient materials before it to enable it to appreciate the charge; and the effect of the Bill is that there will be no appeal from the decision of that Court except such as may now exist on points of law. It follows from the fact that there is to be no appeal, that the Court must be constituted of Judges of the highest authority, and the proposal is that it should be formed of three Judges of the High Court appointed by the Chief Justice and sitting without a jury. The preliminary proceedings take the form of an enquiry by the Magistrate limited to ascertaining whether a *prima facie* case for the prosecution has been made out, a case sufficient to justify the putting of the accused on trial. The functions of the Magistrate will be analogous to that of the Grand Jury in England, which hears no witnesses for the defence, but confines its investigations to the question whether the evidence for the prosecution justifies a trial. The result of these provisions will be that there will be one trial, and one trial only, instead of three as in effect there may now be, but that the one trial will be held before a Tribunal of unimpeachable authority and impartiality. It has not been found possible in the Bill to define with exactness the offences which will be referred to the Special Tribunal, but I think I may fairly anticipate that no case which can be promptly disposed of by ordinary process will be taken away from the usual Tribunals unless special reasons exist for doing so. A short time since a prisoner was put on trial charged with attempting to murder the late Lieutenant-Governor of this Province. The facts were not disputed and the whole proceedings were concluded within some two or three weeks. I do not suppose that cases of that kind would ever be referred to the Special Tribunal, but when once it is attempted to draw a line between the cases which are to be referred and the cases which are not to be referred, then difficulties begin. I believe it to be impossible to frame a general definition which would satisfactorily accomplish the purposes of this legislation: it is better, as it seems to us, to limit generally the classes of offences as is done in the Bill and in the Schedule, and to leave the responsibility with the Governor General in Council of putting the procedure in the Bill into operation. I am aware, my



- Lord, that the result of this procedure may be in some cases to withdraw the right which a prisoner may have under the existing law to a trial by jury. That would not be so in the Alipore case, but in other cases the Bill might have that result. But I would point out that in effect the Tribunal is a jury of three Judges, and I believe it to be a form of jury which any innocent man would prefer. The responsibility of taking the case away from a jury will rest with the Government, and it must be left to them to decide; they are amenable to public pressure, and if they use the power unjustly there will be opportunities of calling attention to it. My Hon'ble Colleague has explained the provisions as to the admission of evidence of witnesses who have been murdered, and I have little to add to what he has said. No doubt the admission of this evidence is an alteration of the law, but it is not without precedent in the legislation of the United Kingdom, and the experience of the last few months has shown us that some provision of this kind is necessary. It may be that if it were exercised to its fullest extent it would cause hardship in the case of innocent prisoners on their trial jointly with others, but the weight to be attached to the evidence is a matter for the Tribunal, and we may safely trust the Judges to see that no hardship is caused in that way.

"The second part of the Bill gives greater powers in regard to unlawful associations, and that is a matter more for the Department over which my Hon'ble Colleague presides than for myself; but no one can have listened to the crushing indictment which he has presented here this morning without being convinced that these associations are a very serious disturbance to the public tranquillity even if they do not more directly organize crime. The powers taken by the Bill are aimed only at associations which constitute a danger to the public peace, and punishment under them can be inflicted only by the ordinary process of the Courts.

"I do not apprehend, my Lord, that the Bill will be successfully attacked, in the conditions of the present time, on the ground that it goes too far. There may be objection taken to particular provisions in it, but in regard to the objects of it, it will hardly be disputed that some legislation is called for. The necessity for some acceleration of the process of the law has been generally admitted: the necessity for putting a check on associations of the kind to which the Bill applies cannot be denied. I listened to the remarks of the Hon'ble Dr. Rashbehary Ghose in which he dealt with the necessity for this measure, and I could not help admiring, from a professional point of view, the skill with which he skated round the real point without ever brushing against it. The provision for special procedure he did not dissent from, and as to the associations he did not contest but they are a very real danger to the public peace. This is the real point and he did not tackle it; if they are dangerous then the necessity for legislation is established. So far from the Bill going too far, I should rather anticipate the objection that the proposals do not go far enough; and that it will be said in view of the facts which my Hon'ble Colleague and the Hon'ble the Nawab of Dacca have put before us this morning, that the time has come for more drastic remedies. It is on that point that I desire to make some observations.

"My Lord, the Government of India have not hesitated to take vigorous action on former occasions both by the exercise of the powers which are at their disposal under the existing law and by asking this Council for special powers to deal with special developments. The Punjab was quieted by action taken under existing powers: the disturbing utterances of extremist newspapers have been checked by prosecutions under the ordinary law. Seditious meetings, at one time a source of grave disturbance to the public peace, have been held but infrequently since this Council passed special legislation to deal with them; the Newspaper Act has given powers of confiscating printing presses, powers which have already been used with effect; the Explosive Substances Act was enacted within a few weeks of the first bomb outrages. The Government of India cannot therefore be accused of inaction; they have shown themselves prompt in every case to deal with evils as they arose. But the pervading note of Your Lordship's policy has hitherto been to refrain from anything like a general suspension of the ordinary law and to rely

on the people of India to put an end to the bad feeling from which sedition springs by their own influence. We have removed malignant growths, as they have been discovered, by operations of surgery, but we have trusted the people of India to apply that medicinal treatment which can alone prevent the recurrence of those growths. It is said that the time has now come for abandoning that policy and for embarking on repressive legislation. Beyond doubt repression can be made effective, and beyond doubt it will be made effective if it is forced upon us. It should not be lightly undertaken since it cannot avoid the infliction of hardship on the innocent as well as on the guilty; it cannot but involve the disturbance of the whole community. But if other measures fail to maintain peace, then no alternative remains. The question before us is whether the situation today is such as to force upon us this change of policy.

"There is admittedly a new factor to be taken into account. It is the existence of a band of anarchists whose object is to render the enforcement of law impossible, whose methods are assassination and intimidation. A movement such as this, my Lord, is not a danger to the British Raj; that cannot be shaken by the murders of individuals, nor will any of those who have the honour of serving the King-Emperor be deflected a hair's-breadth from the path of duty by fears or threats. But it is a danger, and a grave one, not to the British Raj, but to the Indian community itself. Once let anarchy spread its evil roots over the country and it becomes a growth which cannot easily be checked: and if that ever comes to pass, there will be no one of whatever class or creed in the community who will not be at the mercy of an assassin to satisfy a grudge or gratify an enmity. That, my Lord, is the real danger we have to fear, and it is a danger which must be put an end to at once and completely. That it can be ended is beyond doubt; that it will be ended is as certain as that day follows night. The resources of legislation are not exhausted by this Bill; the resources of force have not yet been brought into play. The question is one only of the means by which it may best be effected.

"My Lord, if these conspirators represented the bulk of the Indian community of Bengal, if they in any way had behind them the public opinion of these Provinces, then indeed the case for strong repressive legislation would be unanswerable. But the Government of India do not believe that this is the present state of things. They believe that these crimes are as abhorrent to the better classes of the Indian community in these Provinces as they are to every other civilised human being. It is impossible for us to think that the Indian gentlemen of these Provinces, many of whom we are privileged to number among our personal friends, give countenance in any sort of way to these deeds of shame; and we believe that crimes of this kind are equally detestable to the Bengali race as a whole. But the evil has come about because the real opinion of the public has not been declared. An outside observer looking at the events of the past few years might well have inferred that there were no moderate, reasonable men in Bengal; that the nation looked for its guidance to platform agitators; that the politics of the country were dictated by College students. We all know that this inference would be altogether false. The real power lies with the men of position and substance, and with the men of the middle classes who form the backbone of every nation: these are the men who can guide public opinion if they will do so, and with them the present issue lies. The intentions of the vast majority are, as we believe, wholly loyal to the King-Emperor, and we have heard that affirmed in eloquent terms today by the Hon'ble Dr. Rashbehary Ghose. It is true that many of them desire some further measure of self-government: that is a reasonable desire and it is one with which all of us sympathise within certain limits. But they have no desire to render the British Raj impossible or to subvert the constitution of the country. And their interests must be wholly on the side of order. They must know that deeds of anarchy can only defer instead of quickening further grants of self-government; they must know that men who cannot control their own sons cannot justly claim to govern other people; they must know that the departure of the British Raj would inevitably be followed by civil war with all its attendant horrors, bloodshed and rapine. Therefore their interests must be as firmly on the side of loyalty as we believe their wills to be.

"It is because the Government are confident that this movement finds no support in the general public opinion of these Provinces that a more drastic Bill has not been introduced today. And it is for the same reason, if I read aright, that it has been determined that these outbreaks of lawlessness shall not interfere with those proposals for further self-government which Your Excellency initiated some two years ago and which will be shortly made known to the public. If I may judge from the declared intentions of Your Lordship and from the public utterances of His Majesty's Secretary of State, the concessions that are to be made will be of a liberal character; they will be a real step in advance towards the greater control by Indians of the administration of this country.

"These, my Lord, are the reasons by which the policy of your Lordship's Government have been guided on the present occasion, but they are reasons based on the anticipation, which the Government confidently entertain, that the present state of things will pass away. If there be no improvement, then those reasons will lose their force. We stand today at the parting of two ways. One road leads to greater self-government under the direction and guidance of the British Raj; it is the way of peace, of law and of order. The second road can only lead to repression and ultimately to the reign of force, it is a way on which the ordinary law is suspended. It is for the Indian community, and primarily for the Indian community of these two Provinces of Bengal, to decide which road we shall travel. The Government of India, and those who know Indians as we do, believe, and confidently believe, that they will choose the first of these two roads and that events will justify the trust which your Lordship has placed in them and the policy which you have pursued. But it lies with them to choose. The time has come for the leaders of the Bengali nation, for the men of influence and of substance in the Indian community, to take the reins into their own hands and to guide the coach of State along the right road. Let them no longer shrink from the responsibility: it is their duty to their nation, to the world and to their King-Emperor, to use their power and to use it promptly. My Lord, I invite this Council to vote in favour of the motion which is before it."

His Honour THE LIEUTENANT-GOVERNOR said:—"My Lord, I understand that the measure which is now offered for consideration is the outcome of representations which have been submitted by the Local Governments of the two Provinces to which it is to be applied in the first instance and of deliberations to which Sir Andrew Fraser was a party. In any event I am well aware that Sir Andrew Fraser was absolutely convinced of the necessity for strengthening the law on some such lines as these.

"I desire to say, in the most public manner, and in the most emphatic words at my disposal, that I am wholly in agreement with him. I have recently spent some three or four months on leave in England, and during that period I have had occasion to discuss the present situation in India with many persons, including not a few who have no direct or personal connection with this country. In all these conversations one feeling was uppermost and conspicuous; those with whom I spoke almost invariably expressed amazement at the inordinate delay which has hitherto occurred in the determination of State trials such as that now pending at Alipore; and they have dwelt on the paramount necessity of bringing them to a conclusion and punishing the guilty with the utmost possible promptitude. It was idle to reply that under the present law such delays are unavoidable, or to point out that the law, framed with reference to normal conditions, contemplates no less than four separate proceedings, *vis*, (1) the police enquiry, (2) the enquiry before the committing Magistrate, (3) the trial at the sessions, and (4) the eventual appeal to the High Court. People invariably rejoined that if the law involves such procrastination the law is inappropriate to present circumstances and should be altered.

"I entertain no doubt that an amendment of the law is urgently necessary. When proceedings in a State trial are inordinately protracted, as they must frequently be under the present procedure, the effect upon public feeling is deplorable; for the sense of shock and shame originally felt at the enormity of the crime fades

away in weariness and disgust, long before slow-footed and uncertain punishment has overtaken the offender. The first part of the present Bill deals with this evil in a manner which fairly claims the adhesion and assent of all reasonable men. No stronger, swifter, or more impartial tribunal in all India can be found than a bench of three Judges of the High Court; that it is costly may be admitted, but I venture to think that its cost will be repaid many times over in the public confidence which will attach to its proceedings.

"The second part of the Bill contains the provisions by which it is sought to reach and extirpate those secret societies which are a significant feature of the revolutionary movement and which have done so much evil during the last three years. I will frankly admit that I do not feel the same confidence in regard to these new substantive provisions as I have expressed in regard to the special tribunal of the High Court. Dr. Ghose says that the picture drawn of those societies is over-charged. I regret that I hold a very different view. The evidence before me shows that in a number of districts these associations have done and are now doing an enormous amount of mischief. At their best they provide a ready organization for inoculating immature students with the poison of politics, for the dissemination of sedition, and for the terrorising, by methods to which the Hindu social system readily lends itself, of persons who hold unpopular views. At their worst they are active underground agencies for the perpetration of violence and outrage, of dacoity, and of murder. I regard these associations as among the most dangerous as well as the most elusive of the enemies with whom we have to deal. I am unable to feel any strong assurance that the powers with which we are now arming ourselves will suffice to extirpate them as swiftly and certainly as I should desire. I am, however, prepared to give them a fair trial in Bengal. I shall administer them as vigorously as I may; and if they should be found inadequate I shall not hesitate to apply to Your Excellency to be armed with sharper and less cumbrous weapons.

"It is a matter of much concern to me that my first public pronouncement since assuming charge of my present office, should be in relation to a measure of this character, which I can but admit reflects no credit on the good name of the Province to which I belong and to which I am sincerely attached. And this must be my excuse if in this connection I say one word of hope—a hope which I venture to think that Your Excellency will share. It is our duty to stamp out sternly the sparks of incipient anarchy and disorder, and this we seek to do by the Bill which is now before us. But this measure does not represent the whole or even the major part of the policy of Your Excellency's Government in dealing with the present situation. Our greater task is so to adjust the machinery of Government that our Indian fellow-subjects shall be allotted a part which a self-respecting people can fill. And when the constitutional reforms which have been under Your Excellency's consideration are finally announced, as they shortly will be, I hope and believe that this task will be on the road to accomplishment."

The Hon'ble SIR HARVEY ADAMSON said:—"I am sure that Your Excellency and my Hon'ble Colleagues will join with me in regarding it as a matter for much gratification that this Bill has received so strong a measure of support from the non-official members of the Legislative Council. Nothing could more strongly demonstrate that the sense of the country is with us, that the public mind has revolted against the attempts that have been so assiduously made to plunge the country into disorder, and that all loyal men are convinced that it is the duty of Government to assume such powers as are necessary in order to stamp out anarchy.

"It has been suggested that the Bill would be more acceptable to the public if a provision were inserted limiting its operation to a stated period. We have considered this point and come to the conclusion that it is better to enact the Bill as a permanent measure. If, happily, conditions improve so as to make it apparent that its provisions are no longer wanted, it will be easy to repeal it. But the spirit of anarchy, when it once takes root in a country, is not easily or quickly eradicated, and I confess that I cannot with confidence look forward to a time, one or two years hence, when provisions of the nature

of those contained in this Bill will have permanently become unnecessary. For these reasons we have thought it best to refrain from limiting the operation of the Bill to any stated period.

"The only provision to which my Hon'ble friend Dr. Rashbehary Ghose has taken exception is the clause which gives power to the Government to declare an association unlawful when it is satisfied that it interferes with the administration of law or the maintenance of order, or that it constitutes a danger to the public peace. Now this is in my opinion a very salutary provision, and I may add that it is a very merciful provision. Its object is preventive. It is intended to save from the penalties of prosecution a great number of the young and thoughtless who have been induced to join these associations, probably knowing little of their criminal objects. I have already referred to the success which has followed the legislative measures which we sometime ago adopted. That success is due in much greater measure to prevention than to punishment. I have confidence that similar success will accompany this preventive measure, and surely, if what must be done can be done by prevention instead of by punishment, it is better to employ the less severe method.

"Objection has been taken to the hurried manner in which the Bill is being passed through the Legislative Council. I fully admit that Hon'ble Members have some reason to complain. The Bill has, however, been in the hands of Hon'ble Members for thirty-six hours. I wish that it could have been possible to give a longer time for their deliberations. But we reluctantly came to the conclusion that this is a matter in which the convenience of Hon'ble Members must be subordinated to expediency. In the present excited condition of public feeling, it is imperative that if a measure of this kind is to be enacted, it must be enacted quickly.

"In conclusion I must say that my task in taking charge of this Bill is a painful one. I am sure that my Hon'ble Colleagues will share with me the intense reluctance I entertain to perform this duty. But I never was more clear in my life as to the necessity of what we are doing. Some persons may say that we have waited a long time before fulfilling this duty, but after all there does require to be shown the existence of an extreme evil, unmistakable as to its extent, before legislation of this nature can be initiated. I may be permitted to express the great consolation I have in knowing that during the past year we have also been engaged in a duty of a more congenial kind, and I hope that in the statement which Lord Morley will make in a day or two, it will be seen that if the Government of India have been strong in repressing crimes, they have also been generous in granting reforms."

The motion was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE moved that in clause 17, sub-clause (1), of the Bill, after the word "Whoever" the word "knowingly" be inserted. He said:—"That clause now runs thus:—

'Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contributions for the purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.'

"It is one of the elementary principles of criminal law, it is also common-sense, that a guilty mind is an essential element in constituting a crime. This well known principle is recognised in section 9 of the Act of 1882 [Prevention of Crimes Act (Ireland)], which says:—

'Every person who knowingly is a member of an unlawful association as defined by this Act, or takes part in the operations of an unlawful association as defined by this Act, or of any meeting thereof, shall be guilty of an offence against this Act.'

"Similarly, the Criminal Law and Procedure (Ireland) Act of 1887, section 7, says—I am going to read only the relevant parts and not the whole of it:—

'Every person calling together a meeting of such association in the specified district, or of any members thereof as such members, or knowingly taking part in any such meeting or publishing with a view to promoting the objects of such association.'



"I do not think it is the intention of the Government to make this Act more stringent than the Irish Acts of 1882 and 1887. They were both very drastic measures and I was under the impression that it was impossible to improve upon them; but I see that the draftsman has been able to achieve that feat, because, as the Bill now stands, a man, however innocent of any guilty knowledge or intention, may be sent to prison for six months under this law."

The Hon'ble SIR HARVEY ADAMSON said:—"I regret that I cannot accept this amendment. It would mean that it would be the duty of the prosecution to prove that the person who is accused of taking part in the operations or contributing to the funds of an unlawful association knows that the association is unlawful. Now this is a fact which in almost every case it would be impossible for the prosecution to prove. The clause would be ineffective if the burden of proof on this point did not rest with the accused. A person who takes part in the operations of, or contributes to, an unlawful association, in ignorance that it is unlawful, is protected by section 79 of the Indian Penal Code, which provides that nothing is an offence which is done by any person who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be justified by law in doing it. But in this as in the rest of the general exceptions under the Indian Penal Code the burden of proof rests on the accused, and to alter this provision in the manner proposed would be simply to render the penal clause quite inoperative. For these reasons I regret that I cannot accept the amendment."

The Hon'ble DR. RASHBEHARY GHOSE said:—"I would like to point out that although the word 'knowingly' occurs in both the Irish Acts, the Government did not find that the Acts were inoperative. Mr. Balfour certainly did not find it so in 1887."

The motion was put and negatived.

The Hon'ble DR. RASHBEHARY GHOSE moved that in clause 17, sub-clause (1), of the Bill, before the word "contributes" the word "knowingly" be added. He said: "It may be that a member of an unlawful association cannot take part in a meeting of such association without knowing the true character of the association. But can you say the same thing of a person who merely pays a subscription say to a cricket club the members of which may be secretly engaged in promoting crime? I submit this a very modest amendment to which no reasonable exception can be taken."

● The Hon'ble SIR HARVEY ADAMSON said:—"My answer is the same in this as in the previous amendment that was proposed. If a person is accused of contributing to the funds of an unlawful association and has contributed in ignorance that the association was unlawful, he has only to prove that to the Court, and under the provisions of the Indian Penal Code, which I have just read, he will be exempt from punishment. The objection to the amendment now proposed is just as strong as to the amendment last proposed. I regret therefore that I am unable to accept it."

The motion was put and negatived.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be passed.

"His Excellency THE PRESIDENT said:—"My Hon'ble Colleague, Sir Harvey Adamson, has described so fully the chain of incidents which have led up to the present position that there is no need for me to recapitulate them. We should, however, bear in mind the true interpretation of the story he has told us. We should remember that for years the vapourings of a seditious Press have been disseminating the seeds which are now bearing fruit, and that following in the wake of inflammatory newspaper articles we have had the speeches of revolutionary agitators, and the consequent deplorable misguidance of the youth of the country culminating in the commission of senseless outrages and brutal crimes."

"No one has hoped more sincerely than I have that the existing laws of the land might have proved sufficient to deal with the difficulties which have surrounded us; but it has not been so, and the exceptional legislation we have already passed, though productive of good results, was not framed to meet the

danger which now confronts us. The Maniktolla Garden discoveries, followed by the attempt on the life of Sir Andrew Fraser, and the murder of the Police Inspector, have opened a new chapter in the history of sedition. They have taken us far beyond treasonable pamphlets and revolutionary speeches, they have shown us the results of those preachings and are laying bare before us the workings of a murderous conspiracy—a widespread conspiracy—recruited from the ranks of emotional young men saturated with grotesque ideas of political freedom. Horrible as it all is, I confess to some feeling of commiseration for these infatuated boys—for many of them are little more than that—blindly ruining their own future and the happiness of their home surroundings.

"But there it is. The Government of India have this conspiracy to deal with. We know its acknowledged aims, the systematic assassination of Government officials which is to discredit our administration, and expel the British *Raj* from India, and notwithstanding the wicked absurdity of such schemes, we cannot disregard the fact that personal and public security are dangerously threatened, and that we are imperatively called upon to protect the public safety, and to subdue the indications of an increasing lawlessness.

"My Hon'ble Colleague, Dr. Rashbehary Ghose, has taken exception to certain clauses in the Bill and to our procedure in attempting to pass it in a single sitting. I am always very ready to treat the opinion of my Hon'ble Colleague with respect; indeed, I look to his sage advice and to his influence with his fellow-countrymen to assist us largely in the solution of the political problems of the future. But when I am told that the position is not one of such emergency as to justify a departure from recognized routine in the introduction of new legislation, and that further opportunity should be given for constitutional discussion, and for the expressions of public opinion, I must refuse to agree. Public opinion, European and Indian, has spoken out freely from every part of the country, and has officially and privately declared to me that the existing insecurity can no longer be tolerated, and that the Government of India must be more efficiently armed. With that opinion I am in entire accord. This is not a time to ponder further over the details of legislative machinery. There is nothing to justify a demand for further deliberations as to the action which the Government of India is now called upon to take.

"There are other reasons, too, for which I have been anxious that the Bill which we are about to pass should immediately become law. We are on the eve of the announcement by the Secretary of State of reforms which have long been foreshadowed, and I should be sorry to see that announcement immediately followed by exceptional criminal legislation such as that with which we have today been dealing. I cannot agree with my Hon'ble Colleague, Dr. Ghose, that we should first promulgate our reforms, and then proceed to deal with anarchical crime. I should prefer to feel that the stern measures which the unfortunate necessities of the moment have forced upon us have been completed before any announcement of reforms is made, and that, having done our best for the maintenance of law and order, we can proceed with a free hand to discuss the development of the future. The success of that future must be based not only upon the united efforts and co-operation of British and Indian administrators, but on the good sense of the Indian community. Upon its active assistance at the present moment much depends; and I would earnestly ask the members of every race, of every caste and of every creed to unite in one common effort to put an end to the dark plots and apprehensions of hidden danger which are crippling the daily life of the people. I would ask them to assist the Government of India in removing the causes which have so unfortunately necessitated today's legislation."

The motion was put and agreed to.

The Council adjourned to Friday, the 18th December 1908.

J. M. MACPHERSON,  
*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA;  
The 11th December 1908. }



# The Gazette of India.

PUBLISHED BY AUTHORITY.

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CALCUTTA, SATURDAY, DECEMBER 19, 1908.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

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## PART VI.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations.

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,  
ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS  
UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS,  
1861 AND 1892 (24 & 25 VICT., C. 67,  
AND 35 & 36 VICT., C. 14).

The Council met at Government House, Calcutta, on Friday, the 18th  
December, 1908.

### P R E S E N T :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy  
and Governor General of India, *presiding*.  
His Honour Sir Edward Norman Baker, K.C.S.I., Lieutenant-Governor of  
Bengal.  
The Hon'ble Mr. H. Erle Richards, K.C.  
The Hon'ble Major-General C. H. Scott, C.B., R.A.  
The Hon'ble Sir Harvey Adamson, Kt., C.S.I.  
The Hon'ble Mr. J. O. Miller, C.S.I.  
The Hon'ble Mr. W. L. Harvey, C.I.E.  
The Hon'ble Sir G. D. F. Wilson, K.C.B., K.C.M.G.  
The Hon'ble Mr. A. A. Apcar, C.S.I.  
The Hon'ble Nawab Bahadur Khwaja Salimulla of Dacca, C.S.I.  
The Hon'ble Maung-Bah-too, K.S.M.  
The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.  
The Hon'ble Mr. W. R. H. Merk, C.S.I.  
The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of  
Dār bhanga.  
The Hon'ble Raja Muhammad Ali Muhammad Khan, Khan Bahadur.  
The Hon'ble Mr. N. C. Macleod.  
The Hon'ble Mr. J. Andrew.  
The Hon'ble Mr. Maneckjee Byramjee Dadabhoy.  
The Hon'ble Mr. Slacke, C.S.I.

### QUESTIONS AND ANSWERS.

The Hon'ble MR. DADABHOY asked :—

"Will Government be pleased to state what progress has been made throughout the various seats of Governments and Administrations in the matter of granting free primary education in India, an early consideration of which subject was promised by the Government of India in presenting the Financial Statement for 1907-08?"

The Hon'ble SIR HARVEY ADAMSON replied :—

"The reports of Local Governments have now been received and are under consideration."

The Hon'ble MR. DADABHOY asked :—

"(a) Will Government be pleased to state if it was consulted with reference to the decision of the Board of Education and the India Office approving the report of the Committee which recommended the breaking up of the Indian Museum at Kensington into three sections in connection with its removal?"

"(b) Has the attention of Government been drawn to this matter; if so, will the Government be pleased to state if any reference to it was made on this subject and if it acquiesced in the decision of the Board of Education and the India Office, and has Government any objection to place on the Council table all correspondence in reference thereto?"

The Hon'ble MR. HARVEY replied :—

"The Government of India have no information on the subject."

### PRESIDENCY-TOWNS INSOLVENCY BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Bill to amend the Law of Insolvency in the Presidency-towns and in the town of Rangoon be referred to a Select Committee consisting of the Hon'ble Mr. Apcar, the Hon'ble Mr. Macleod, the Hon'ble Mr. Dadabhoi and the mover.

The motion was put and agreed to.

### INDIAN PORTS BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Report of the Select Committee on the Bill to consolidate the relating to Ports and Port-charges be taken into consideration. He said :—"I have explained on a former occasion that this Bill is a purely consolidating measure, and I have nothing to add now."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, as amended, be passed.

The motion was put and agreed to.

### INDIAN REGISTRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Report of the Select Committee on the Bill to consolidate the law relating to the Registration of Documents be taken into consideration. He said :—"This, my Lord, is also a consolidating Bill and I have no observations to make beyond saying that on one point to which attention was called in this Council on a former occasion, the Committee have inserted a small amendment to preserve the existing law as it now stands in all the Provinces."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, as amended, be passed.

The motion was put and agreed to.



## INDIAN EMIGRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Report of the Select Committee on the Bill to consolidate the enactments relating to the Emigration of Natives of India be taken into consideration. He said :—"This is also a purely consolidating measure."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, as amended, be passed.

The motion was put and agreed to.

## INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved that the Bill further to amend the Indian Merchant Shipping Act, 1880, be taken into consideration. He said :—"Before I proceed to explain the two small amendments which stand in my name, I will deal briefly with the criticisms which have reached us in regard to the provisions of this Bill. The principle underlying the Bill has met with general approval, and indeed a suggestion has been made by the Government of Bombay that its scope should be extended so as to provide for the detention of a foreign ship in cases where the condition of her hull, equipment or machinery is defective. While we agree that a provision to this effect would be desirable, we do not consider that it can be included in the present Bill, which deals solely with the marking of deck and load-lines and is intended to put foreign vessels on the same footing in this respect as British ships. Some misconception appears to have arisen in regard to the effect of clause 3, and it has been assumed that this clause will not permit of a vessel loading to the Indian summer draught, which is indicated by a line drawn above the centre of the disc. This assumption, of course, is not correct. The maximum load-line to which a ship is permitted to load varies according to the circumstances and the season of the intended voyage, and is determined by rules framed by Local Governments under section 40 of Act VII of 1880. These rules provide that the provisions of Chapter II of the Act are to have effect as if any line so determined were drawn through the centre of the disc, so that there will be nothing to prevent a ship from loading to the maximum load-line which is applicable to the voyage on which she is intended to proceed. It is not therefore necessary, as has been suggested, to amend this clause. The Bengal Chamber of Commerce have asked that provision may be made for the consumption of coal between the port of survey and the sea. At Calcutta it has been the practice, in determining the load-line, to make an allowance on this account in the case of vessels going down the Hughli, and it is not intended to interfere with this arrangement.

"The two amendments which I have to propose are formal and are only intended to bring the wording of clauses 2 and 3 into conformity with the language used in the existing provisions of the law. We propose to omit from sub-clause (a) of clause 2 of the Bill the word, 'solely' after the word 'employed' and before the words 'in plying coastwise': this sub-clause will then correspond with clause (b) of section 3 of Act VII of 1880 as it will read when this Bill becomes law. The insertion of the word 'perfectly' before the words 'smooth salt water' in clause 3 of the Bill is necessary to bring this clause into conformity with section 34 of Act VII of 1880."

The motion was put and agreed to.

The Hon'ble MR. HARVEY moved that the word "solely" in sub-clause (a) of clause 2 of the Bill be omitted. He said :—"I have already explained the reasons for this amendment."

The motion was put and agreed to.

The Hon'ble MR. HARVEY moved that the word "perfectly" be inserted before the word "smooth" in clause 3 of the Bill.

The motion was put and agreed to.



The Hon'ble MR. HARVEY moved that the Bill, as now amended, be passed. The motion was put and agreed to.

#### ADMINISTRATIVE REFORMS IN INDIA.

His Excellency THE PRESIDENT said:—"I would like to say a few words before we adjourn. Hon'ble Members are aware that the Secretary of State yesterday laid before Parliament the papers connected with administrative reforms in India. Amongst them are two very memorable documents—the Despatch from the Government of India to the Secretary of State of the 1st October last and the Secretary of State's reply of 27th November—which we have just received. The recommendations we submitted to him had for two years been before us, and I cannot sufficiently express to my colleagues my appreciation of the ability and constant thought they devoted to the great questions with which they had to deal. The Secretary of State has considered our suggestions with the generous statesmanship upon which we well knew we could rely, and it is gratifying to us to recognize that he is in almost entire accord with proposals emanating from India.

"There is no occasion today to enter upon any consideration of the details of the correspondence I have referred to—they will undoubtedly be amply discussed, not only officially, but by the public in India, and whatever verdict that public may pass upon them, I hope that we may assume that we are about to enter upon a new administrative era, based upon a recognition of the advance of political thought and the justness of many political ambitions. I hope that with the dawn of this new era, the recollection of the dark days through which we have been passing may disappear. The future is largely in the hands of the people of India and their leaders—it rests with the latter to assist us to dispel the results of anarchical political fanaticism, it rests with the people themselves to welcome an honest attempt to ameliorate the administration of their country. It is to the leaders of Indian political aims and to the people of India whose aspirations they direct that we must look for that support which can alone secure the success of the reforms we are about to inaugurate."

The Council adjourned to Friday, the 15th January 1909.

J. M. MACPHERSON,

*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA;

The 18th December 1908. }

(13) Ed.